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Its History and [illegible]

BY

WILLIAM [illegible]

PROFESSOR OF [illegible]

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PREFACE

THE interest shown in recent years in the study of civil government indicates a growing appreciation of that kind of knowledge which is essential to citizenship. It is also a healthy feature of our present educational system that the study of political science is becoming more and more practical, — that it is directed to those subjects which are connected with the political life of the citizen himself, and not to the mere discussion of theoretical questions. It is evident that this kind of practical knowledge can be obtained only by the study of our Federal and State governments — in their history, organization, and methods of administration. The political interests and activity of every American citizen are most closely related to the government of his own State and of the locality in which he lives; and hence it seems proper that his political education should begin with these primary elements of our federal system.

With such an educational purpose in view this volume has been prepared. It attempts to give a brief and comprehensive survey of the government of the State of New York, — in respect to its historical growth, its structural features, and the administrative work which it performs for the benefit of the people.

The *growth* of the government is traced from its earliest form to the present time, through the Dutch, the English,

and the constitutional period. This historical survey is restricted to the development of the political institutions, and is intended to point out the most important steps in the growth of popular government in the State.

The *structure* of the government includes a general discussion of the State constitution as the fundamental law, defining the constitutional rights of the people and the frame of the government; citizenship and suffrage, considered with reference to the part taken by the people in the exercise of political authority; the central government and its various branches; and the local governments in their organization and functions.

The *work* of the government is especially emphasized to show the purpose for which the government exists, and the benefits which it is intended to confer upon the people. The undue attention often given to mere political forms is likely to create in the pupil's mind the idea that the government is an end in itself, and not simply a means to a higher end. Special attention is therefore directed to the work which the government actually performs, — in the administration of justice by defining and protecting individual rights; in the protection of the community through the exercise of the police power; in the support given to public education; in the supervision of public charities and corrections; in the control of economic interests; and in the management of the public finances.

Each chapter is prefaced by a list of references, pointing out some of the more important works and illustrative materials which bear upon the subject of the chapter. In using this volume as a text-book the student should have

access to some of these works, such as Brodhead's *History of New York*, O'Callaghan's *History of New Netherland*, and the *Manual for the Use of the Legislature of the State of New York*, usually called the "Legislative Manual." It is important that the school library contain some edition of the general laws and statutes of the State. The only official publication of these laws consists of the *Revised Statutes* of 1827–1828 (which have been practically superseded by later legislation), and the *Session Laws* published each year. The compilation of the "General Laws" of the State, made by the Statutory Revision Commission, are scattered through the *Session Laws;* but these are not readily accessible to the ordinary student. There are, however, several valuable unofficial collections of the general laws and statutes, any one of which would serve the purpose of the student. The most important of these compilations are: Heydecker's *General Laws and Revised Statutes of the State of New York*, revised edition, 5 vols., 1901; Cummings and Gilbert's *General Laws and Other General Statutes of the State of New York*, 3 vols., 1901; Birdseye's *Revised Statutes, Codes, and General Laws of the State of New York*, third edition, 3 vols., 1901. The recent reports of the most important administrative departments should be consulted, if special attention is given to the administrative work of the State.

The limited scope of this volume prevents the introduction of a great amount of illustrative material; but the few tables, synopses, and excerpts from historical documents, collected in the Appendices, may prove beneficial to those who have not access to more complete sources

of information. The teacher can do much to make the study of civil government real and interesting by calling attention to current political questions. This should be done, of course, not in a partisan spirit, but to show how such questions are related to the general interests of the community, and to develop in the mind of the pupil some concern for the common good.

This volume is intended to be, not simply a text-book for pupils in school, but a guide-book for all who wish a comprehensive survey of our State institutions and suggestions for a more thorough study of the subject. The author wishes to express his appreciation of the interest shown by the publishers of this series in the cause of political education; and also of the suggestions given by the general editor in the preparation of this volume.

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UNIVERSITY OF ROCHESTER,
ROCHESTER, N.Y.

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PART FIRST

THE GROWTH OF THE GOVERNMENT

CHAPTER I

THE DUTCH AND NEW NETHERLAND

I. REFERENCES

A general survey of New York under the Dutch may be found in Roberts, *New York* (American Commonwealth Series), chs. 1–6; Hildreth, *History of the United States*, I. chs. 5, 13; Lodge, *English Colonies*, 285–295; Bancroft, *History of the United States* (last ed.), I. 475–518; Winsor, *Narrative and Critical History of America*, IV. 395–409; Bryant and Gay, *History of the United States*, I. pp. 339–369, 429–449, II. 115–164; Fiske, *Dutch and Quaker Colonies*. The most important general histories covering the period are Brodhead, *History of New York*, vol. I., O'Callaghan, *History of New Netherland*, 2 vols., which contain important documents, and Smith, *History of New York to 1732*. Other general histories of New York are those of Dunlap, 2 vols.; Macaulay, 3 vols.; Yates and Moulton.

Special information may be obtained from the local histories, such as Lamb, *History of the City of New York*, 2 vols.; Booth, *History of the City of New York*, 2 vols.; Wilson, *Memorial History of the City of New York*, vol. I.; Roosevelt, *New York* (Historic Towns Series); Furman, *Antiquities of Long Island*, and *History of Brooklyn*; Thompson, *History of Long Island;* Wood, *History of Long Island;* Flint, *Early Long Island;* Moore, *Antiquities of Long Island;* Stiles, *History of Brooklyn*, 3 vols. The character of the early Dutch towns is described in Elting, "Dutch Village Communities on the Hudson" (in *Johns Hopkins University Studies*, fourth series); A. E. McKinley, "Dutch and English Towns in New Netherland" (in *American Historical Review*, vol. VI. p. 1).

Original sources and documents are contained in O'Callaghan, *Documentary History of New York*, 4 vols., *Documents relative to the Colonial History of the State of New York*, 15 vols., and *Laws and Ordinances of New Netherland, 1638–1674;* Munsell, *Annals of Albany*, 10 vols.; and the various town records. Much important material is also contained in the *Collections of the New York Historical Society.*

For further references, see Channing and Hart, *Guide to American History*, pp. 67–69, 112, 258; Winsor, *Narrative and Critical History of America*, IV. 409–432, 439–442; and *Bibliography of New York Colonial History*, published by the New York State Library (Bulletin 56).

2. Political Growth of New York

Importance of the State government.

To understand the political system under which we live, we must study not only the Federal government of the United States, but the government of our own State. In many respects the State government comes into closer and more vital relations to us than does the national government. The most important interests of our daily life — our personal liberty and security, the peace of our homes, our property, our health, our education — are all largely under the protection or supervision of the State. So too, our most ordinary political duties have to do either with the affairs of the State itself, or with various matters connected with the subdivisions of the State — the affairs of the county, the town, the village, or the city. These are matters which concern every citizen. To know how they are managed, and how they ought to be managed, is necessary to every one who expects to have a share in the rights and duties of citizenship.

Reasons for studying its

If we should attempt at the outset to comprehend all the varied interests of this great State — with its

millions of inhabitants, with its complicated political machinery, with its multitude of officers, with the vast amount of work which it does for the welfare of the people — we would doubtless find it a difficult and discouraging task. Like every other complex and highly developed organization, our State government can be most easily understood by studying it in its origin and growth. We can then see its small and simple beginnings, the way in which it has gradually expanded, and finally the manner in which it has reached its present development. We can see how the methods of government have been changed from time to time to meet the growing needs of the people; how, also, the people have obtained more and more a share in the government; and how the government has at last come to be the organized agency through which the people may protect their own rights and provide for their own welfare.

Sources of New York institutions.

The origin of our State government must be found in the institutions of the people who have settled within the limits of the State. These people came from Europe, and were the subjects of European governments. The first political institutions of our State were therefore European in their origin, and were established in order to govern the colonists who settled on the coasts of Long Island and the shores of the Hudson. The earliest of these people were the Dutch; and consequently the earliest institutions were those which grew up under the influence of Dutch ideas and methods. The next people were the English; and the institutions of the colony were changed, or supplemented, by methods which were largely English in their character. But when the

authority of the English government was overthrown, the people of the State were called upon to establish a government of their own, to manage their own affairs in their own way. Instead of conforming strictly to either Dutch or English methods, they developed a form of government which was suited to their own situation and needs, and which was secured by a constitution of their own making. This later form of government can properly be described only by calling it American. Our political institutions have therefore been derived from different sources. A part of them may be referred to the Dutch; a much larger part to the English; but the greatest and most distinctive portion must be regarded as having been developed upon American soil.

Periods of New York history.

In view of the different sources from which our institutions have been derived, the political history of New York may be divided into three periods: (1) the Dutch period (1609–1664), when the shores of the Hudson and of Long Island were discovered and settled by the Dutch people, and local institutions were established somewhat like those in Holland; (2) the English period (1664–1776), when the Dutch colonies were conquered by the English, and the previous Dutch institutions were modified and supplemented by English ideas and methods; and (3) the Constitutional period (from 1776 to the present), during which time New York has become a free State, and has established a constitutional government, which is neither Dutch nor English, but distinctly American in its character. We are therefore to study New York as a Dutch colony, as an English province, and as an American State.

3. Establishment of the Dutch Colony

Political institutions of Holland.

The first form of government established within the borders of the State was derived from the institutions of Holland. While the other countries of Europe were oppressed by despotic rulers, the Dutch people had thrown off the authority of Spain, and had established an independent republic. Their different provinces were united under a body of their own representatives, called the States General. But the institutions of the Dutch people that directly concern us here are the forms of local government which they had in the seventeenth century, and which they brought to our shores. The Dutch provinces were made up of a large number of *feudal estates* governed by feudal lords, or "patroons." Each lord was not only the proprietor of the land of his estate, but was to a great extent the political ruler within this territory. Besides these estates, or "patroonships," there were also quite a number of *commercial towns* having the right of local self-government; that is, the right to choose or nominate their own officers, to raise their own taxes, and to administer their own laws. The United Provinces, of which Holland was the most important member, was thus a group of self-governing communities.[1] The custom of governing themselves made the Dutch a liberty-loving, intelligent, and self-reliant people; and wherever they went they carried with them the spirit of liberty and the forms of local self-government.

The commercial policy of Holland.

In the seventeenth century Holland was inspired, like the rest of Europe, with the spirit of commercial

[1] Motley, *Dutch Republic*, I. 30–41; Brodhead, *New York*, I. ch. 13.

enterprise. She desired to extend her trade, and to plant colonies in India and in other parts of the world. To do this more effectively, she established commercial companies, or bodies of merchants organized under a charter to carry on trade with the newly discovered countries. It was in the employ of one of these companies — the Dutch East India Company — that Henry Hudson, while trying to find a northwestern passage to India, sailed into New York Bay, and discovered the Hudson River (1609).[1] The prospect of opening a fur trade with the Indians in America led to the formation of a new company — the New Netherland Company (1614) — with a charter from the States General, in which charter the territory was first called "New Netherland."[2] This company took possession of Manhattan Island, and also established a trading-post near the present site of Albany. It was thus the commercial spirit of Holland that led to the discovery and first settlement of the lands along the Hudson.

The Dutch West India Company.

When the charter of the New Netherland Company expired (1618), another company was established, under the name of the Dutch West India Company (1621). This company made earnest efforts to develop a trade with the natives, and to encourage emigration to the new colony. Its charter gave it the power to make permanent settlements, to establish a government over the colony, and to appoint all necessary officers, civil, military, judicial, and executive.[3]

[1] Brodhead, I. 24–35; O'Callaghan, *New Netherland*, I. ch. 2.

[2] Brodhead, I. 61–65; O'Callaghan, I. 74–76.

[3] Brodhead, I. 134–137. See Appendix, this volume, p. 236.

In the year following its incorporation the Company took active steps to occupy the new territory. Ships were despatched to the Hudson; a trading-post was established on Manhattan Island, and Fort Orange was erected near Albany. A small colony of eighteen families was soon settled at Fort Orange; and another colony, made up of Walloons, or French Protestants, was settled on Long Island at a place called "Waalbroght," or foreigners' bay (1623). Plans were immediately made to erect a fort on the Delaware, which was called Fort Nassau; and another one, Fort Good Hope, was built on the Connecticut.[1] These three forts on the Hudson, the Delaware, and the Connecticut, formed the outposts of the colony. The supervision of the colony and the interests of the Company were at first placed under the direction of Cornelius Jacobzen Mey (1624), who was succeeded the next year by William Verhulst (1625).

Establishment of the colony.

The colony as yet had no definitely organized government, although two directors had already been appointed to look after the interests of the Company. With the appointment of Peter Minuit as director-general (1626) there was organized what we may call the first colonial government. To assist the director, a council, consisting of five persons, was appointed. The director and his council were vested with the supreme legislative, judicial, and executive authority within the colony; they were subject only to the Company and the States General in the mother country. Under the director and his council were two administrative officers; one was the secretary and bookkeeper of the colony, called the "koop-

First colonial government.

[1] Brodhead, I. 149–162; O'Callaghan, I. 99, 100.

man"; the other was an executive officer, to carry out the orders of the council, called the "schout," a sort of public prosecutor and sheriff.[1] This small body of officers formed the first civilized government within the territory of our State; and from it as a starting-point we are to trace the more complex institutions of later times. The headquarters of the government were located on Manhattan Island, which was purchased from the Indians for sixty guilders (about twenty-four dollars). Fort Amsterdam was erected at the lower extremity of the island; and a settlement soon grew up about the fort, receiving the name of New Amsterdam.

4. The Patroonships or Feudal Manors

Charter of Freedoms and Exemptions."

During the first years of Minuit's administration there were comparatively few settlers, the whole population not amounting to more than two or three hundred. The efforts of the Company in Holland to encourage emigration to the New World led to the establishment of the first form of local government in the colony. The Company passed a law (1629) called the "Charter of Freedoms and Exemptions," which gave to every member of the Company the right to plant a colony of fifty persons in any part of the province, except on the reserved island of Manhattan, and the right to govern such colony as the feudal estates, or patroonships, were governed in Holland.[2] Such a colony or settlement might occupy

[1] Brodhead, I. 163, 164; O'Callaghan, I. 101–103.

[2] Brodhead, I. 191–198. See Appendix, this volume, p. 237.

sixteen miles on one bank of any river, or eight miles on both banks, and extend inland as far as it seemed desirable.

The feudal system on the Hudson.

By this charter the feudal system of Holland was transplanted to the banks of the Hudson and the Delaware. On the upper Hudson — in the present counties of Albany, Columbia, and Rensselaer — a large estate was taken up by Kilien van Rensselaer, and received from its proprietor the name of Rensselaerwick. Another estate, called Pavonia, was laid out on Staten Island and the lower Hudson on the Jersey shore. A third was established on the Delaware, under the name of Swaanendael. The last two mentioned were short-lived; but Rensselaerwick remained during the whole Dutch period, and its peculiar system of landholding did not pass away entirely until recent times.

The government of the patroon.

The patroon was a feudal lord. He was not only the proprietor of the land, but the political ruler over those who settled upon it. He had the authority to appoint officers and magistrates and to exercise jurisdiction in all cases, except those involving a capital crime. In civil cases involving more than fifty guilders (about twenty dollars) an appeal lay to the director general at Manhattan. The form of the government established by the patroon over his estate was somewhat similar to that of the colonial government at Manhattan. The patroon was assisted by a council consisting of four persons — the superintendent of the estate and his deputy, and two magistrates called "schepens." The subordinate officers of the estate were the "schout," or sheriff; the secretary, who kept the records; and a court messenger,

or constable.[1] The government thus constituted was used to advance the interests of the patroon, with little regard for the welfare of his tenants.

Condition of the people.

The population of the estate was made up mostly of farmers, or tenants, and day-laborers. The conditions upon which the tenant held his land were far from easy. All the produce raised on the tenant's land must first be brought to the patroon, who deducted one-half or one-third for his own use. Every person erecting a building must pay a ground-rent to the patroon. Every tenant must grind his corn at the patroon's mill. No one could hunt or fish, or even leave the estate, without the patroon's consent.[2] With such hard conditions as these it could not be expected that the population would increase very rapidly.

5. Growth of Town Governments

The new charter of 1640.

Under the existing system the condition of the colony was not such as to satisfy the expectations of the Company. The director, Minuit, was charged with favoring the avaricious policy of the patroons, and was recalled (1632); and the colony was governed for a year by the council without a director. Wouter Van Twiller, the next governor (1633–1638), strove to advance the commercial interest of the Company. But he lacked practical skill and prudence, and was soon superseded by William Kieft (1638–1647), under whose administration important changes took place. To restrict the power of the patroons and to give further encouragement to emigration, the Com-

[1] O'Callaghan, I. 320.

[2] Brodhead, I. 305; Scharf, *Westminster County*, I. 31–160; Tyler, *Colonial New York*, I. 1–33.

pany issued a new Charter of Freedoms and Exemptions (1640). This charter is important to us because it paved the way for another form of local government. Among other things the charter gave to any person, accompanied by five other grown persons, the right to take possession of two hundred acres of uncultivated land, with the further provision that, when such settlements should increase in size, towns might be formed, with local governments like those possessed by the towns in Holland.[1] Such towns were to have local magistrates appointed by the director and council, "from a triple nomination of the best qualified in said towns and villages." From these magistrates, who were to form a local court, an appeal could be made to the colonial government at Manhattan. After the issue of the new charter the territory became dotted with a considerable number of hamlets and villages. The population, which in 1640 was only a few hundred, increased to about three thousand before the English conquest (1664); and during this time we see the growth of local government in the towns of the colony.

The English towns on Long Island.

The first people to take advantage of the charter of 1640 were, however, not the Dutch people, but the English from New England. Some of them came to Long Island to find more religious freedom than they enjoyed in Massachusetts, some to obtain greater security from the Indians than they possessed in Connecticut. Having been accustomed to town governments in New England, they consented to settle in New Netherland only on the condition that they should retain their town-meetings and choose their

[1] Brodhead, I. 311–313; O'Callaghan, I. 218–222.

own officers. This assurance was given by the director, Kieft, on the condition that their elections should be approved by the director and his council.[1] The English towns on Long Island were thus incorporated at the time of their settlement. Within a short period there were four English towns (afterward five) in New Netherland enjoying the right of local self-government; and these were in fact the first towns incorporated within the colony.[2]

The "Five Dutch Towns."

The incorporation of the English towns was soon followed by that of the Dutch towns. Breucklyn, which included the Walloon settlement at Waalbroght, and which was the oldest village on the island, now received for the first time a local government. This town, with four other neighboring Dutch villages, which also received local magistrates, became known as the "Five Dutch Towns," and were grouped together for administrative purposes. Delegates from the town courts formed a sort of "district court," with a single schout, and with authority over the district. This body of magistrates could construct roads, build churches, establish schools, and make local regulations subject to the approval of the colonial government at Manhattan. But most of these

[1] Brodhead, I. 335; O'Callaghan, I. 317; McKinley, in *American Historical Review*, VI. 10–12.

[2] The English towns on Long Island within the jurisdiction of New Netherland were the following: —

Mespath, Middleburgh (Newtown), settled and incorporated 1642.

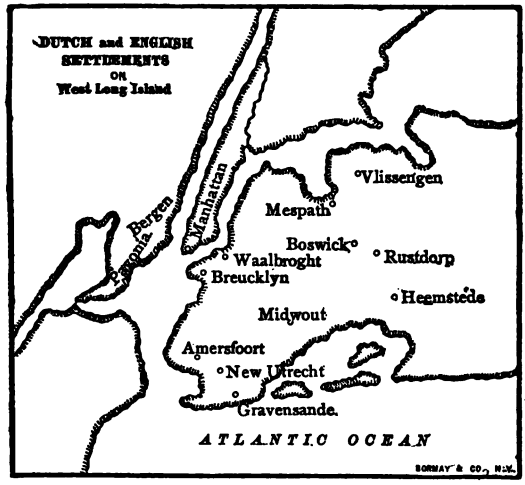
Heemstede (Hempstead), settled and incorporated 1644.

Vlissingen (Flushing), settled and incorporated 1645.

Gravensande (Gravesend), settled and incorporated 1645.

Rustdorp (Jamaica), settled from Heemstede and incorporated 1656.

towns were organized after the appointment of Peter Stuyvesant as director (1647), and had little to do with the appointment of their local officers. The first officers were usually named in the charter of incorporation, and their successors were appointed by the director, on nominations made by the retiring



magistrates, and not by the people.[1] Stuyvesant, however, saw the need of concentration to withstand the attacks of the Indians, and ordered the people to collect in villages, "after the fashion of our New England neighbors."[2]

[1] Brodhead, I, 580, 693. The Five Dutch Towns on the Hudson were the following: —

Breucklyn (Brooklyn), settled 1623, incorporated 1646.
Amersfoort (Flatlands), settled 1636, incorporated 1654.
Midwout (Flatbush), settled 1652, incorporated 1654.
Boswick (Bushwick), settled 1660, incorporated 1661.
New Utrecht, settled 1657, incorporated 1661.

[2] Brodhead, I. 613.

The Dutch towns on the Hudson.

The towns on the Hudson, with the exception of New Amsterdam, were perhaps the least flourishing of all the Dutch settlements, being scattered along the river and constantly exposed to the attacks of the Indians. They received after a while a sort of local government, subject to the supervision of the director and his council. The government consisted of a few "schepens," or magistrates, having judicial authority over small offences, with power to make local regulations in respect to roads, bridges, churches, schools, and with administrative authority to carry out these regulations. These magistrates were assisted by a "schout," who prosecuted offenders and carried out the orders of the court. The officers were not elected by the people, but were generally appointed by the director. The Dutch towns, however much they may have desired liberty, did not possess the same amount of self-government as the English towns, or even as much as the towns in their own Fatherland.[1]

[1] The typical government which was evidently intended for these towns is seen in the "Conditions" offered by the Burgomasters of New Amsterdam with the approval of the West India Company. For these "Conditions" see *New York Historical Society Collections*, I. 291; another translation of the same, *New Series*, I. 238. The following were the towns on the Hudson: —

New Amsterdam, demanded a burgher government 1649, incorporated with five "schepens," two "burgomasters," and a "schout," 1653.

Beverwick (near Fort Orange), settled 1634, partly incorporated 1652.

New Haerlem, settled 1651, incorporated 1660.

Esopus (Wiltwyck), fort built 1616, village formed 1658, incorporated 1661.

Bergen, settled 1657, incorporated 1661.

6. Struggle for Political Rights

The people of New Netherland, whether English or Dutch, were made up of men who believed in popular government, and who desired a voice, not only in the government of their own towns, but in the central government of the colony. There was nothing, however, in the charter of the Company which gave to the people this privilege. The Company had conferred the supreme power in the colony upon the director and his council. It was only the prospect of a serious Indian war that first drove the director, Kieft, to seek the advice and support of the people. In his perplexity the director summoned an assembly at Fort Amsterdam (1641), which was the first popular meeting ever held in the colony. The assembly chose "Twelve Select Men" as their representatives to confer with the director. The Twelve Men not only gave their advice regarding the Indian trouble, but demanded reforms in the government, claiming that the colonial council should contain representatives from the people. These demands were rejected; the Twelve Men were dismissed; and the director issued a proclamation to the effect that there should be no more meetings of the people without his order.[1]

The "Twelve Men."

This first attempt at popular government was soon followed by another similar attempt. Another outbreak of Indians compelled the director to call another assembly (1643). This assembly followed the example of its predecessor, and chose "Eight Men" as their representatives, who took advantage of their

The "Eight Men" and their complaints.

[1] Brodhead, I. 317–319, 325–329; O'Callaghan, I. 242–249.

position to assert their rights as freemen.[1] They drew up an address to the Company in Holland, reciting the grievances of the people; they demanded the recall of Kieft, and suggested that representatives should be chosen "to vote on public affairs with the director and his council." As a result of these complaints, Kieft was recalled, and Peter Stuyvesant was appointed in his place (1647).

Stuyvesant and the "Nine Men."

Stuyvesant on his accession to power yielded to the popular demand for representatives; and from eighteen men nominated by the people, he selected "Nine Men" to advise and assist him when called upon. The Nine Men were soon called upon to vote supplies for repairing the fort, for completing the church, and for providing for the public school. The proposals regarding the church and the school were approved; but it was thought that the expense of repairing the fort should come from the revenues of the Company. The independent spirit of the Nine Men excited the wrath of the governor, who showed no sympathy with free institutions.[2] He forbade the keeping of a journal of the council's proceedings. He repressed the religious freedom hitherto enjoyed in the colony; he declared in favor of the Dutch Reformed Church; imposed a fine upon any who should preach without a license; and persecuted the Quakers who had fled from Massachusetts. The Nine Men drew up and sent a remonstrance to the Company, complaining of the arbitrary conduct of the governor, and citing the example of the New England

[1] Brodhead, I. 364, 397–400; O'Callaghan, 283–285, 288–292.

[2] Brodhead, I. 473–477, 504–517; Lamb, *City of New York*, I. 142–147.

towns, where "neither patroon nor lord was known, but only the people."

The continued opposition between the people and the governor led to the convention of 1653.[1] It was composed of nineteen representatives chosen from eight towns — four English towns and four Dutch towns — the latter of which the governor proposed to incorporate to offset the influence of the English. The chief work of this convention was the drawing up of a remonstrance, containing several indictments, which the governor was asked to answer. In his reply Stuyvesant called attention to the fact that the document had been drawn up by an Englishman (George Baxter), "that these Englishmen, the actors, the instigators and leaders of these novelties, actually enjoyed greater privileges than the New Netherland 'Exemptions' allow to any Dutchman;" that the English custom of electing officers would not be tolerated in the Dutch towns; that if the populace were allowed to elect their magistrates, "each would vote for one of his own stamp, the thief for a thief, the rogue, the tippler, and the smuggler for his brother in iniquity." When the convention sought to reply, it was dispersed with a farewell message of Stuyvesant insisting that "we derive our authority from God and the Company, not from a few ignorant subjects."[2]

The convention of 1653.

In spite of the fact that the people persisted to the last in their claims to a share in the government, and in spite of the fact that the governor was sometimes driven to consult them, there was never established a permanent and efficient representative assembly in

Fall of New Netherland.

[1] Brodhead, I. 570–573; Lamb, I. 166.

[2] Brodhead, I. 568–575; Lamb, I. 167.

New Netherland. In the midst of dangers arising from Indian attacks, from encroachment of the New England people, and from the renewed hostilities between England and Holland, a final attempt to obtain a popular government was made in 1664, when the people came to the support of Stuyvesant.[1] But before this assembly was dissolved the English king, Charles II., reasserted the long-standing claim of England to this territory, and conferred it upon his brother James, Duke of York. Upon the arrival of the English squadron, Stuyvesant surrendered to its commander; and the territory, which had been held by the Dutch for half a century, became an English province.

7. Review of the Dutch Colonial Government

The sovereign power.

The political institutions which grew up in New Netherland were developed under the influence of the Dutch colonial policy. The sovereignty, or supreme authority over the colony, was vested in the States General, the governing body of the Dutch republic. The States General had conferred upon the Dutch West India Company the right to rule the colony, and by the authority thus granted to this commercial company, the government in the colony was established. So the government in the colony was subject to the Company, and the Company was subject to the supreme authority of the States General.

Central government of the colony.

In the colony itself the political system comprised the central government, which had control over the general affairs of the community, and the

[1] Brodhead, I. 728, 729; Lamb, I. 206.

local governments, which exercised an authority within restricted localities. The central government consisted of the director general and a council of from one to five persons, appointed by the Company, and sometimes approved by the States General. The other officers were the colonial secretary (koopman), and the public prosecutor (schout-fiscaal), who also performed the duties of a sheriff.

Local governments of the colony.

The local governments comprised two forms, somewhat similar to those existing in Holland, namely, a feudal form and a municipal form. The feudal form was the patroonship, in which the local authority was exercised by the patroon, with a court and local magistrates appointed by himself. The municipal form comprised the towns, in which the authority was exercised by local magistrates (schepens) with a prosecuting officer (schout). The town officers were appointed by the director and his council, upon nominations made either by the people in the English towns, or by the retiring magistrates in the Dutch towns.

The rights of the people.

We can hardly claim that the government of New Netherland was based upon true democratic principles. While adopting the political forms of the Fatherland, it did not reproduce the spirit of those institutions. The commercial policy of the Company and the autocratic temper of the governors were opposed to the spirit of freedom which moved the people. It was only the stress of external dangers, and the constant complaints of the people, that led to the adoption of even the forms of representative government. But the popular assemblies were intermittent, and formed no permanent element in the political system. The advice of the Twelve, Eight, or Nine Men, who were

sometimes called to counsel with the governor, wa generally ignored. But it is to the high honor of th Dutch people that they loved liberty, even when the did not possess it. It is also to their great hono that, in spite of the intolerant policy of their governo they permitted a large degree of religious liberty, an favored a system of free education.

CHAPTER II

NEW YORK AS AN ENGLISH PROVINCE

8. References

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9. The New Proprietary Government

Patent to the Duke of York, 1664.

By the English conquest the sovereignty of New Netherland passed from the States General of the Dutch republic to the king of England. Instead of placing the government in the hands of a trading company, as the Dutch had done, the English king, Charles II., placed it in the hands of his brother James, Duke of York and Albany. By this act the territory became a proprietary colony. The law by which it was now to be governed was contained in the patent, or written document, given by the king to the duke, who was now made the proprietor. The territory granted to James included not only that hitherto belonging to New Netherland, but the whole eastern part of Long Island, Martha's Vineyard, and Nantucket Island, and the territory of Pemaquid situated in Maine. Over this territory the duke was made absolute ruler. The patent invested him with "full and absolute power and authority to correct, punish, pardon, govern, and rule" all his subjects according to such laws as he might see fit to establish, provided only they were not contrary to the laws of England.[1] In its form the new government was as despotic as can well be imagined. The patent contained no guarantees of liberty and no provisions for representative government.

[1] Brodhead, II. 16. See Appendix, this volume, p. 238.

The extensive power conferred by the king upon the Duke of York, the duke in turn deputed to Richard Nicolls under the name of "deputy governor." Nicolls was a man of tact, and his general policy was to reconcile the Dutch inhabitants to the new state of things. He therefore made as few changes as possible in the existing form of the government. As governor of the province he followed the Dutch practice, and established a council of five members, which with himself was to exercise executive, legislative, and judicial powers.[1] The municipal officers were continued, according to the terms upon which the city had surrendered. The towns on the Hudson were unmolested. While the English worship was introduced in the province, the Dutch were allowed to continue their customary services.

Nicolls and the new government.

Besides the fact that English officials had taken the place of the Dutch magistrates in the central government, there was little to show that the territory had changed masters. As a sign of English supremacy, however, the name of the province and of the city was changed to New York in honor of the proprietor. The name of the fort was changed from New Amsterdam to Fort James. Long Island with Staten Island was made a shire, and called "Yorkshire"; and with the occupation of Fort Orange, that place was called Fort Albany, a name derived from one of the titles of the duke.

Change of names.

The boundaries of the province were now more clearly defined by the settlement of the long-standing disputes with Connecticut. To that colony was given the territory to within twenty miles of the

The new boundaries.

[1] Brodhead, II. 43; Thompson, 98–114.

Hudson; and it in turn yielded up all claim to the towns in eastern Long Island. On the south the lands between the Delaware and the sea were granted to new proprietors, Berkeley and Carteret, and became known as New Jersey.

10. "The Duke's Laws"

The English of Long Island.

In organizing his new province, Governor Nicolls found little difficulty in dealing with the towns on the Hudson, which were exclusively Dutch, and which were permitted to retain their Dutch customs. When he turned to Long Island — his new county of "Yorkshire" — he met with a more serious problem. There were here three sets of towns: (1) the Dutch towns in the west, which had been organized upon the Dutch type; (2) the neighboring English towns, which had hitherto been subject to the Dutch, and which had been organized upon what we might call a Dutch-English type; and (3) the English towns in the eastern part of the island, which had been subject to Connecticut, and which had been organized upon a purely New England type. It was the English element in Long Island which needed now to be pacified. With his usual adroitness, he assured his English subjects that they should have "equal if not greater freedom and immunities than any of His Majesty's colonies in New England."[1] He then compiled a body of laws, based upon the laws of Massachusetts and Connecticut, making whatever changes he thought desirable; and took steps to promulgate these laws to the people of Long Island.

[1] Brodhead, II. 66.

For this purpose he called upon each town to send two deputies to a general meeting to be held at Hempstead (1665). The governor submitted his new code, as substantially the laws then in force in New England, "but more liberal in matters of conscience." The people of eastern Long Island were dissatisfied with the code, since it contained no provision for the election of provincial officers or for the voting of taxes by their representatives.[1] The governor assured the people that he had been as liberal as his instructions would permit, and that the king only had power to give them a greater share in the government. The deputies found that the convention had been called, not to make laws, but to accept them; and the code was promulgated as the laws of the province.

Meeting at Hempstead, 1665.

This body of laws, compiled by Nicolls and his council, became known as "The Duke's Laws." It was the first New York code, and was based, with some modifications, upon the laws of New England.[2] Like those laws it was arranged in alphabetical order by topics. It contained provisions relating to the government of the towns, the organization of the courts of the province, and provisions regarding religion and certain police regulations.

The first New York code.

In attempting to give a uniform organization to the towns of Long Island, the governor followed more

Government of the towns.

[1] The towns of eastern Long Island were Oyster Bay, Huntington, Setalcott (Brookhaven), Southold, Southampton, and Easthampton.

[2] McKinley, in *American Historical Review*, vol. VI. p. 704, *et seq.*; Brodhead, II. 70–73; Thompson, *Long Island* (ed. 1823), 101–107; Lamb, I. 226–229. For copy of these laws, see *New York Historical Society Collections*, I. 307–411.

nearly the New England than the previous Dutch type. The town-meeting became the basis of the local government. It was authorized to elect a constable and eight overseers, who together formed a town board empowered to make regulations for the good government of the town. The board of overseers was required to make the rates, that is, to assess the taxes, for building and repairing the church, for maintaining the minister, and for the support of the poor. The town elections were not as heretofore submitted to the governor for his approval.

Organization of the courts.

The courts of the provinces were now the town court, the court of sessions, and the court of assize. (1) The town court was composed of the constable and two overseers, having jurisdiction over civil cases under five pounds. A justice of the peace was authorized, but not required, to preside at this court. (2) The next higher court was the court of sessions. For judicial purposes Yorkshire was divided into three "ridings" after the manner of Yorkshire, England. Generally speaking, the east riding corresponded to the present county of Suffolk; the west riding to the counties of Kings and Richmond; and the north riding to the county of Queens. A high sheriff was appointed over the whole of Yorkshire, and justices of the peace for each of the ridings. These justices were to hold a court, called a "court of sessions," in each riding, presided over by the governor, or a member of his council. (3) The court of assize was the highest court of the province, and was to meet at New York. It consisted of the governor, his council, the high sheriff, and the justices of the peace. Besides its judicial duties, this court

was invested with the supreme power of making, altering, and abolishing any laws in the province.[1] As the subordinate members of this court were all appointed by the governor, it was in no proper sense a representative body.

Provisions regarding religion.

With a population made up of various sects — Dutch, Lutherans, English Puritans, Episcopalians, Baptists, Quakers, and others — the governor could do scarcely less than to tolerate them all. No one denomination was favored more than another. Every congregation was to be undisturbed, and the law provided that no persons should "be molested, fined, or imprisoned for differing in matters of religion, who professed Christianity." But the governor evidently believed that religion of some sort should be encouraged. Every parish was obliged to have a church; and a regularly ordained minister was to be supported, who was expected to preach every Sunday, and to pray for the king, queen, Duke of York, and the royal family.[2]

Miscellaneous provisions.

Besides these provisions there were other laws in the duke's code relating to military duty; capital crimes; the administration of estates; the boundary of towns; weights and measures; the destruction of wolves; the duty of innkeepers; provisions for a pair of stocks and a pound in each town, and a pillory in each place where the courts of sessions were held. The code promulgated at Hempstead formed the fundamental laws of the province. It was intended especially for the towns of Long Island, and was not immediately applied to the Dutch towns on the Hudson.

[1] Brodhead, II. 63; Thompson, 110–114. [2] Brodhead, II. 72.

New York City.

The most important political change which occurred after the publication of the "Duke's Laws" was the reorganization of the government of New York City. The city had been governed by the Dutch schout, burgomasters, and schepens for nearly a year, when the governor decided to introduce the English form. He then announced that the future government of the city would be in the hands of a mayor, five aldermen, and a sheriff, "according to the custom of England."[1] This change was largely a mere change of names. Although the new officials were Englishmen, they continued to exercise under the name of "Mayor's Court" nearly the same functions as their Dutch predecessors had done. Dutch forms continued to be practised in the court, the chief innovation being the introduction of the English trial by jury.

II. The Assembly of 1683

Dongan and his instructions.

The towns of New York by obtaining the free choice of their own officers had now acquired a larger degree of liberty than they had enjoyed under the Dutch rule. But the people had as yet obtained no voice in the general government of the province, and their rights as subjects had not been secured by a fundamental law. The right of religious freedom and the trial by jury were based merely upon the law issued by the governor. The appointment of Governor Dongan in 1683 marks the transition to a new period in which the people were permitted to take another step in the direction of political

[1] Brodhead, II. 75; Lamb, I. 230.

liberty. Governor Dongan is described as "a man of integrity, moderation, and genial manners," and was well fitted to preside over a freer government. But the political reform did not proceed from Dongan, but from the proprietor himself. From some cause which is not clearly explained — perhaps from the desire of his subjects, perhaps from the example of other colonies — the Duke of York decided to give to the people of New York a representative government. He accordingly gave to the governor instructions to call a general assembly, the members of which were to be chosen by the people, and were to consult with the governor and his council in the making of laws for the good government of the colony.[1] The laws made by the assembly were to be submitted to the governor, who could approve or deny them. The laws approved by the assembly and governor were to remain in force, unless specially disapproved by the duke. These instructions to Governor Dongan furnished the basis of a freer government than the colony had ever before possessed.

The first New York assembly, 1683.

In accordance with these instructions, the first New York assembly met on October 17, 1683. It was made up of eighteen representatives from the different localities of the colony. There were two representatives from each of the ridings of Long Island; from Staten Island, one; from Esopus, two; from Albany and Rensselaerwick, two; from Schenectady, one; from Pemaquid (in Maine), one; from Martha's Vineyard and Nantucket, one; from New York and Haerlem, four. The assembly met in the city of New York, and proceeded to enact the first

[1] Brodhead, II. 372.

body of laws ever made by the people of the colony.[1] Although the Dutch people had the majority of votes in the assembly, the laws embodied not only the Dutch principle of religious freedom, but some of the best features of the English constitution.

"Charter of Liberties."

The first and most important of these laws was known as the "Charter of Liberties." This had all the character of a constitutional law, since it established a form of government, and guaranteed certain fundamental rights to the people. The supreme legislative authority under the king and the Duke of York was declared to be vested in the governor, council, and the people met in a general assembly. The members of the assembly were to be elected by the freeholders; and sessions were to be held at least once in three years, according to the practice of England. The assembly was to be the judge of the qualifications of its own members; and the members were to be free from arrest during the sessions. Not only did this charter establish in New York a true representative government, it also granted to the people the most sacred constitutional rights possessed by Englishmen, and some of these were expressed in nearly the words of Magna Charta. It provided (1) that no freeman should be taken and imprisoned, or deprived of his freehold or liberty, but by the law of the land; (2) that no tax of any kind should be laid upon the people except with the consent of the people met in their general assembly; (3) that all trials should be by a jury of twelve men; and in criminal cases the trial should be preceded by an indictment by a grand jury. Besides the sanction

[1] Brodhead, II. 382; Lamb, I. 300–304; Thompson, 124–126.

given to these civil rights, the principle of religious liberty was reaffirmed: and no person professing Christianity and not actually disturbing the public peace could be punished or molested in any way. From the words of this charter, New York had reason to believe that it was to have the freest government of all the American colonies.[1]

To afford a proper basis for representation, the province was now for the first time divided into shires or counties, according to the English form. The whole territory was subdivided into twelve counties. The twelve original counties may be grouped as follows: three in Long Island — Kings, Queens, and Suffolk; four on the lower Hudson — New York, Richmond, Westchester, and Orange; three in the upper Hudson — Ulster, Dutchess, and Albany; and two in the outlying dependencies — Dukes county (including Nantucket and Martha's Vineyard) and Cornwall (including Pemaquid and the adjacent country in the province of Maine). The county was made the basis, not only of representation, but also of judicial administration.[2] Counties.

The courts of the province now received a somewhat more complete organization. (1) The lowest court was as hitherto the town court for the trial of small causes, to be held monthly by three commissioners of the peace, with or without a jury as the parties desired. (2) The county courts took the place of the previous "ridings" court, and included, first, the court of sessions, to be held quarterly or twice a year by three or more justices of the county, for the trial of New judicial organization.

[1] Brodhead, II. 383. See Appendix, this volume, p. 240.
[2] Brodhead, II. 385.

criminal and more important civil cases, with a jury; and, second, a court of general jurisdiction, called the court of Oyer and Terminer, to be held once a year by a judge and four justices, and to hear and determine cases brought from the lower courts. (3) The court of chancery formed the supreme court of the province; it was held by the governor and his council, although the governor could appoint a chancellor to act in his stead.[1]

Naturalization law.

That the people might know who were entitled to the political and civil rights of the province, a general naturalization law was passed. This law provided that all the actual inhabitants of the province, of whatever nationality, who professed Christianity, and who had taken or should take the oath of allegiance, should be naturalized, and be entitled to the protection and privileges of the government.[2]

The charter signed.

In the light of subsequent events, it is important to notice that the Charter of Liberties was duly signed by the Duke of York; and that it received all the official sanction necessary to give to it the full force of law. It was as valid a guarantee of constitutional rights to the people of New York as was Magna Charta to the people of England.[3] Although it was signed and sealed and considered as being in full force in the province, it was not formally delivered to the authorities in New York, and upon this technical defect was afterward based a long series of misunderstandings and disputes.

[1] Brodhead, II. 386; Thompson, 125–132. For copy of the act, see *New York Revised Laws, 1813*, II. App. 4.

[2] Brodhead, II. 386.

[3] Brodhead, II. 416, note.

12. New York as a Royal Province

By the death of Charles II. (1685) the proprietor of New York became the king of England under the name of James II., and the proprietary colony became a royal province. The liberal policy pursued by James while he was proprietor was abandoned as soon as he became king. The charter given to New York, which he had signed but which had not been delivered, he soon revoked.[1] The assembly was dissolved; and the supreme power in the province was once more placed in the hands of the governor and his council. The fidelity which Dongan showed to James as proprietor, he continued to show to him as king, and faithfully carried into execution the royal will. After a brief experience of two years, New York was thus obliged to give up her representative assembly and her political freedom.

Repeal of the charter.

The new policy of James was to consolidate the colonies, and bring them more directly under the royal power. He united the New England colonies under the supreme control of Andros, formerly governor of New York, and forbade their assemblies. He also joined New York to New England under the same governor, who was authorized, with the consent of a council appointed by the crown, to make laws, levy taxes, and to govern the whole territory. The authority of the governor was supported by a body of regular soldiers. The seal of New York was destroyed; and in place of Dongan a Captain Nicholson was appointed as lieutenant governor.[2]

New colonial policy.

[1] Brodhead, II. 121–122, 125, [illegible]

[2] Brodhead, II. 117–119, [illegible]

English revolution and Leisler's rebellion.

The tyrannical policy of James aroused opposition, not only in America, but also in England; and he was called upon to abdicate his throne (1688). William, Prince of Orange and stadtholder of Holland, was then called upon to take the crown and to rule as a constitutional king. This revolution in England was followed by a rebellion in the colonies. Andros was driven from Boston, and the authority of Nicholson was disputed in New York. In this crisis Jacob Leisler, a patriotic German with perhaps more zeal than judgment, appeared as the defender of the people, and was recognized by his followers as lieutenant governor in place of Nicholson.[1] It is interesting to know that Leisler, in order to resist an invasion by the French, called the first general congress of the colonies to meet in New York (1690). While Leisler was trying to maintain his authority, the new king appointed William Sloughter as governor of New York, with instructions to revive the assemblies of the people, which should assist the governor and council in making laws. Before the arrival of Sloughter, Leisler indiscreetly fired upon the king's troops sent to take possession of the province, which act laid him open to the charge of treason, and resulted in his execution.

Assembly of 1691.

Upon his arrival Governor Sloughter took immediate steps to call an assembly (1691). The rights of the people seemed again about to be recognized. The assembly testified to its loyalty to the new king, and declared the colonial laws of James II. to be void, and contrary to the constitution of England. The most important act of this assembly was to reaffirm

[1] Brodhead, II. 564 *et seq.*; Lamb, I. chs. 19, 20.

the "Charter of Liberties."[1] Although this act was not formally approved by the king, the people regarded it as the expression of their just and constitutional rights, which they had no disposition to forfeit.

The people and the governor.

The form of the government established by William III. continued with little change until the Revolution. The assembly chosen by the people represented their rights and claims; the governor and the council appointed by the king represented his policy. It remained an open question between the people and the governor as to how far the liberties declared by the charter of 1683 and reaffirmed by the assembly of 1691 were to be respected as constitutional rights. It was upon the question of taxation that these disputes were most serious and violent; and it was upon this question that the War of the Revolution was finally fought.

13. Review of the Provincial Government

The central government.

We may now briefly review the government of New York which existed at the close of the colonial period, and which became the basis of later constitutional changes. The ultimate sovereignty rested in the English king and parliament, whence all political power was derived. The central government of the province was vested in the governor, the council, and the assembly. (1) The governor was appointed by the king; he was the head of the government, the commander-in-chief of the army, and had the power of pardon; he represented the royal will in all legislative, executive, and judicial matters. (2) The council consisted of twelve members, and

[1] Brodhead, II. 645.

was appointed by the governor, with the king's approval; it advised with the governor in the appointment of all provincial officers and in the disposal of all public moneys; it possessed legislative authority coördinate with the assembly; and also formed a court of last resort. (3) The assembly was elected by the freeholders of the several counties, and was coördinate with the council in matters of legislation; at first it sat at the governor's pleasure, but afterward (1737) the law prescribed triennial, and finally (1743) septennial elections. The governor possessed an absolute veto upon all laws passed by the assembly and council; and also had the power of proroguing and dissolving the assembly at his will.

The local governments.

The local governments of the province consisted of the towns and the counties. (1) The town was largely a self-governing community, electing its own constable and overseers. The duties of the original overseers passed into the hands of special officers — the supervisor, the town clerk, the overseers of the poor, and the assessors. The town not only elected its own officers, but was authorized to pass certain regulations relating to its local affairs. (2) The county was a group of towns, and a subdivision of the province. It was in no sense a self-governing community. Its only proper officers were of a judicial character, the sheriff and the justices, who were appointed by the governor and council. For the purpose of building and repairing the courthouse and the county jail, it came to be customary for the supervisors of the several towns to meet together to distribute or equalize the rates among the towns of the county. From this custom, as we shall see, arose the more extensive functions of the present board of supervisors.

The judicial system now comprised the following courts: (1) a supreme court with civil and criminal jurisdiction, the justices of which held circuit courts with commission of oyer and terminer in the several counties; (2) a court of common pleas and a court of sessions in each county; (3) a court of the mayor and aldermen in each of the cities of New York and Albany; and (4) justices' courts in the towns with jurisdiction in small cases. Besides these ordinary courts, the governor and council formed a court of chancery, the duties of which were sometimes exercised by the governor alone, or by an officer appointed by him. The appointment of all judicial officers was made by the governor with the consent of the council.

The judicial system.

From these statements it is evident to what extent the people of New York possessed political rights. They elected their own town officers and had a certain control over their local affairs. They elected their representatives to the general assembly; but their legislative power was restricted by the absolute veto of the governor. They had no voice in the election of the governor, or of the members of the council, or of any of the provincial officers, executive or judicial. Their civil rights were not secured by any fundamental law having the unqualified sanction of the sovereign power. Their claims to a larger freedom were based mainly upon their own declaration of rights and their own sense of justice; and it was to obtain this larger freedom, and especially the right to be taxed only by their own representatives, that they joined with the other colonies in the War of the Revolution.

The rights of the people.

CHAPTER III

NEW YORK AS AN AMERICAN STATE

14. References

General references: — Roberts, *New York*, II. ch. 23, "Constitutions and Jurisprudence"; Sterne, *Constitutional History and Political Development of the United States*, ch. VII., "The State Constitutions"; Hammond, *History of Political Parties in the State of New York*, 3 vols. (third vol., *Life of Silas Wright*); Werner, *Civil List and Constitutional History of New York State;* Butler, "Outlines of the Constitutional History of New York" (in *New York Historical Society Collections*, new series, vol. I.); Dougherty, "Constitutions of the State of New York" (in *Political Science Quarterly*, III. 488, IV. 230); Jameson, *Constitutional Conventions*, pp. 136–138 (on the Convention of 1777); Mather, "First Constitution of New York State" (in *Magazine of American History*, XVII. 310); *Niles Register*, XXI. 205, XXIII. 172 (the Constitution of 1821); *Democratic Review*, XIX. 339 (on the Constitution of 1846); Gitterman, "Council of Appointment in New York" (in *Political Science Quarterly*, VII. 80); Street, *Council of Revision of the State of New York.*

Documentary sources: — *Journal of the Provincial Congress, Provincial Convention, Committee of Safety and Council of Safety, 1775–1777*, 2 vols.; Poore, *Charters and Constitutions*, pp. 1328–1378; Hastings, *Public Papers of George Clinton*, 4 vols.; *Report of the Proceedings and Debates of the Convention of 1821; Debates and Proceedings of the Constitutional Convention, 1846;* Bishop and Attree, *Report of the Debates and Proceedings of the Convention for the Revision of the Constitution, 1846;* Underhill, *Proceedings and Debates of the Constitutional Convention, 1867–1868*, 5 vols.; *Journal of the Convention of the State of New York, 1867–1868; Documents of the Convention of the State of New York*, 5 vols.; *Convention Manual of the Sixth Constitutional Convention of the State of New York, 1894*, 9 vols.; *Documents of the New York Constitutional Convention, 1894*, 2 vols.; *Journal of the Constitutional Convention of New York, 1894*, 2 vols.; *Revised Record of the Constitutional Convention of 1894*, 5 vols.

15. The First State Constitution, 1777

Significance of the Revolution.

Whatever crude democratic ideas may have existed in the colonial government under the Dutch and the English, it was the Revolution that resulted in founding a true democratic government, based upon the will of the people. The Revolution began as the assertion of the rights of Englishmen against the arbitrary acts of the English crown; it ended with the establishment of the right of Americans to make their own government. The great political significance of that war was the transference of the sovereign power from the English king and parliament to the people of the United States. The people of New York, like the people of the other colonies, believed that the English parliament had no right to tax them without their own consent. They, therefore, fought the English government in order to defend a principle of the English constitution. By that struggle they showed that the principles of human freedom belong exclusively to no country, but are the rightful possession of that people who have the courage and wisdom to maintain them. We are now to see how political liberty came to be secured by methods which were neither Dutch nor English, but which must be considered as distinctively American.

New York provincial congress.

When they entered upon the struggle for independence, the colonies placed themselves under the general control of the Continental Congress; and each colony was left to manage its own affairs. In the place of the old colonial assembly, New York now established temporarily a new representative body, called the Provincial Congress. This was made up

of representatives chosen from the various counties, and was vested with the power to aid in carrying on the war.

The first constitutional convention, 1776-1777.

The Continental Congress, then sitting at Philadelphia, seeing that no reconciliation with Great Britain was possible, recommended (May 10, 1776) to the several colonies "to adopt such government as should, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular, and America in general."[1] New York followed this suggestion; and the first constitutional convention was called to form a more permanent government. The convention met at White Plains (July 9, 1776); but disturbed by the military operations on the Hudson, it shifted from place to place, until it finally completed its work at Kingston (April 20, 1777).

Character of the first constitution.

The constitution framed by this convention was drawn up by John Jay, and "was at that time generally regarded as the most excellent of all the American constitutions."[2] It did not attempt to destroy the political institutions with which the people had been familiar and to create an entirely new form of government. It was rather an attempt to place the old colonial government upon a popular basis — retaining what was consistent with this purpose, and changing only what was necessary. The sovereign power which had hitherto been vested in the king and parliament was now vested in the people of the State. The convention declared first of all that

[1] Jameson, *Constitutional Conventions*, p. 115; *Journal of the Continental Congress*, II. 158, 166.

[2] Jameson, p. 137.

pose of election, the whole State was divided into four senatorial districts. A person to vote for a senator must possess a freehold estate, worth one hundred pounds ($500). The two houses thus constituted were vested with the same privileges as had belonged to the colonial assembly — the right to elect their own officers, to judge of the qualifications of their members, and to make their own rules.

The office of governor.

Of all the features of the old colonial system, the office of governor was most repugnant to the people. He had been appointed by the king, and he had in turn, with his council, appointed all subordinate officers. He could dissolve the assembly at his will, and he possessed an absolute veto upon all legislation. In order to make the governor the agent of the people, the new constitution provided that he should be elected, once every three years, by the freeholders of the State — the voters having the same qualification as those voting for senators. The governor, as heretofore, was to be the executive head of the State, and the commander-in-chief of the militia. But his power over the legislature was very much restricted. He could call together that body only on extraordinary occasions, and prorogue it for a period not to exceed sixty days. The veto power and the power to make appointments — the chief instruments of his despotic authority — were entirely taken away from him.[1]

The qualified veto power — council of revision.

In place of the absolute veto previously exercised by the colonial governor, a qualified veto power was invested in a new board, called the "council of revision." This board consisted of the governor,

[1] The governor was to be assisted by a lieutenant governor, who was to preside over the senate.

the chancellor, and the judges of the supreme court — any three of them with the governor constituting a quorum. The purpose of this board was to prevent hasty legislation, without exercising the absolute power possessed by the colonial governor. It could veto a bill by returning it to the legislature with any objections it thought proper to make. But a bill thus vetoed could still be passed by a two-thirds vote of both houses. If a bill was not returned to the legislature by the council within ten days it became a law — unless the legislature adjourned within that time.[1]

Council of appointment.

The power of making appointments was also taken away from the governor, and placed in the hands of a board, called the "council of appointment." This consisted of four senators, presided over by the governor. It could appoint all officers throughout the State — except those provided for in the constitution, namely (1) the governor and lieutenant governor, elected by the people; (2) the State treasurer, elected by the legislature; (3) subordinate judicial officers, like clerks and attorneys, appointed by the courts in which they served; and (4) town officers, who were still to be elected by the people in the several towns.

Court of errors.

The judicial system remained substantially as it had been in the later colonial period. There was, however, established a new court for the trial of impeachments and the correction of errors, known as the "court of errors." It formed a sort of court of appeals, reviewing cases brought from the lower courts. It consisted of the president of the senate,

[1] This idea of a qualified veto furnished the model for other States, and perhaps also indirectly for the Federal Government.

the senators, the chancellor, and the judges of the supreme court, or the major part of them.

The new government.

These were the most important changes in the colonial government, made by the first constitutional convention of New York.[1] But they were sufficient to transform a royal province into a democratic State. With the adoption of the new constitution the convention appointed a "council of safety" to carry on the government until the new assembly could be elected. Before its adjournment, the convention also assumed the power to appoint the senators and assemblymen to represent the counties of New York, Kings, Queens, and Suffolk—where, on account of the war, it was impossible to hold elections. The first regular election occurred in June, 1777, when George Clinton was chosen the first governor of the State.

Adoption of the Federal Constitution.

New York was now an independent State, with a government of its own, based upon a constitution made by the representatives of the people. The State joined with the other States under the Continental Congress to carry on the War of Independence. It afterward entered into the Confederation which was formed to bring the several States together under a more permanent government. But the weakness of the Confederation made it clear that a stronger union was necessary; and that this could be brought about only by recognizing a sovereignty higher than that of any individual State. A Federal Constitution was therefore framed (1787), based upon the sovereignty of the whole American people. The weighty reasons why the people of New York should accept

[1] For the text of the constitution of 1777, see Poore, *Charters and Constitutions*, pp. 1328–1340.

this constitution were set forth in a series of papers written by Alexander Hamilton, John Jay, and James Madison, under the name of the "Federalist." By the adoption of this constitution (1788), New York became a part of the larger nation. The sovereignty of the people of the State became merged in the sovereignty of the people of the United States. Its government and its constitution became limited by the higher constitution of the Federal republic. But in those respects in which the powers of the State were not restricted by the Federal Constitution the people were still free to make any constitutional changes which they desired.

16. The Constitution of 1821

Defects of the first constitution.

The first constitution was accepted as the best that could be devised at the time it was adopted. But it was not many years before its defects began to be seen. Two of these defects were especially apparent. In the first place, there was no provision to limit the number of assemblymen and senators, as the population of the State increased; and so the legislature was becoming too large and unwieldy. In the next place, a serious controversy had arisen in the "council of appointment" as to who had the right of nominating officers. The governor claimed that the right of nomination belonged exclusively to himself, subject only to the advice and consent of the other members. The other members, on the contrary, claimed that the right of nomination belonged equally to all the members of the council.

So serious did this controversy become that the

Amendments of 1801.

question in dispute was left to the legislature. But the legislature thought it best to call a special convention to consider both questions, namely, the question as to reducing the number of legislators, and the question as to who had the right of nomination in the council of appointment. The convention thus called enacted the amendments of 1801. The assembly was now reduced to one hundred (100) members, with a maximum limit of one hundred and fifty (150); and the number of senators was fixed at thirty-two (32). As to the question at issue between the governor and his colleagues regarding the right of nominating officers, it was decided that the right of nomination belonged equally to the governor and the other members of the council.

Convention of 1821.

This mode of nominating and appointing the officers throughout the State continued for twenty years. But we can easily see that the "council of appointment" would naturally get to be a corrupt political machine, distributing the spoils of office in the interests of the party in power. The council had, as a matter of fact, the appointment of more than six thousand (6663) civil officers, and more than eight thousand (8287) military officers. The best people of the State were becoming dissatisfied with this method of selecting their public servants. Governor De Witt Clinton expressed his strong disapproval of it to the legislature of 1821. "If the ingenuity of man," he said, "had been exercised to organize the appointing power in such a way as to produce continual intrigue and commotion in the State, none could have been devised with more effect than the present arrangement." The people were also becom-

ing dissatisfied with the "council of revision"; and they moreover believed that the right of suffrage should be extended by reducing the property qualification. These were some of the reasons for calling the convention of 1821, which formed the second general constitution of the State.[1] The principal changes made in the constitution by this convention were the following: —

Extension of the franchise.

The elective franchise was extended to all white persons who had served in the militia, or who paid a tax to the State or county on real or personal property; and also to all colored persons who held a freehold of the value of two hundred and fifty dollars.

The veto power.

The governor's term of office was reduced from three to two years. But more than this, the qualified veto power, which had previously belonged to the "council of revision," was put into the hands of the governor, who thus received some responsibility in matters of legislation. The old "council of revision" was accordingly abolished.

The method of appointment.

The old "council of appointment" was also abolished, and an entirely new system of appointing State officers was introduced. The general executive officers — including the secretary of state, the comptroller, the state treasurer, the attorney general, the surveyor general, and the commissary general — were to be appointed by the joint action of the legislature. All judicial officers were to be appointed by the governor with the consent of the senate, except justices of the peace, who were to be chosen by the board of supervisors and the judges of the supreme court. The sheriffs and the county clerks were to

[1] Hammond, II. ch. 27.

be elected by the people; and all other officers who had previously been elected were still to be elected.

Rights of the people.

The constitution of 1821 also contained a well-drawn "bill of rights," which guaranteed the people in the possession of personal liberty, trial by jury, the privilege of *habeas corpus*, religious liberty, freedom of speech, and the other rights which the American people had already expressed in the first ten amendments of the Federal Constitution.

Constitutional amendments.

Heretofore, when any constitutional change had been made, it was necessary to call a special convention for that purpose. A provision was now made for amending the constitution without the preliminary step of calling a convention. It was provided that the proposed amendment should be agreed to by a majority of each house of the legislature, and then should be approved by two-thirds of each house of the next legislature — after which it should be submitted directly to the people for ratification.[1]

17. The Constitution of 1846

Tendencies toward popular government.

The two constitutions which we have thus far considered show the progress which had been made in the development of a popular government. But still

[1] The constitution drawn by the convention of 1821 was ratified by the people in February, 1822, and, with a few amendments, remained the organic law of the State until 1846. The most important of these amendments were that of 1826, abolishing all property qualifications for white voters; that of 1834, giving to the electors of the city of New York the right to vote for mayor — who had heretofore been appointed by the city council; and that of 1838, extending a like privilege to the voters in all the cities of the State. For the text of the constitution of 1821, and of the subsequent amendments, see Poore, *Charters and Constitutions*, pp. 1341–1351.

the government did not even now rest entirely upon a popular basis. The State executive officers — except the governor and the lieutenant governor — and the judicial officers were not elected by the people. Even the legislature, although elected, was not as strictly responsible to the people as seemed desirable. Hence the movement in the direction of popular government continued, and we may almost say reached its culmination in the constitution of 1846. Indeed, it may be said that the year 1846 marks an epoch in the constitutional history of the State; for at that time the various branches of the government were brought into more direct relation to the people than ever before.

Convention of 1846.

The convention which met in that year was itself more strictly popular than any of its predecessors. The convention of 1777 had represented the proprietors of great estates, and their well-to-do tenants; that of 1821 had represented those voters who possessed a certain property qualification; while that of 1846 was elected upon the basis of almost universal suffrage, and was committed to the theory that all political power was derived from the people.[1]

Reapportionment of the legislature.

In order to make the legislature more strictly representative, it was determined to adopt a new principle of apportionment, whereby each legislator should represent a distinct district. Accordingly, the State was subdivided into assembly districts, equal in number to that of the assemblymen; so that every district was now entitled to its own representative. In a similar way, the State was divided into thirty-two senatorial districts, each one of which was entitled to

[1] Hammond, III. ch. 21.

a single senator. By this new method of distribution the State legislators were brought into more direct relations to their several constituencies.

Election of State officers.

The convention then decided to place in the hands of the people the election of all the principal executive officers provided for by the constitution — the secretary of state, the comptroller, the treasurer, the attorney general, the State engineer and surveyor, the canal commissioner, and the prison inspector. This provision placed the executive branch of the government upon a popular basis.

Reorganization of the judiciary.

The next important change was the reorganization of the judicial system, and the placing of it also upon an elective basis. The judges were no longer to be appointed by the governor and senate, but were, in nearly every case, to be chosen by the people. Certain changes were also made in the organization of the courts. (1) The old clumsy court of errors was now abolished, and a well-organized court of appeals was established to take its place as the tribunal of last resort. (2) The court of chancery was also done away with, and its jurisdiction merged into that of the supreme court. This court was now to consist of thirty-two judges — four to sit in each of the eight judicial districts into which the State was to be divided. (3) The county court was to consist of a single judge, having besides his other duties the administration of the estates of deceased persons. The county judge was authorized, with two justices of the peace, to hold courts of sessions to try criminal cases.

Restrictions on the legis-

The most remarkable feature of the convention of 1846 was the effort made to place the legislative branch

of the government under the more immediate control of the people. This was done by placing special restrictions upon the legislature, and also by making certain provisions intended to preserve the credit of the State. The legislature was hereafter prohibited from granting divorces, authorizing lotteries, and giving special charters to banks. Corporations were to be formed, so far as possible, only under general laws, and not by special acts. The convention also provided for the payment of the existing debts of the State and for maintaining its financial credit in the future. These provisions show that the people were desirous of keeping control of their representatives and of retaining in their own hands some of the most important matters of State legislation. The strong sympathy of the people with all these efforts to popularize the government is seen in the fact that the constitution was ratified by more than 220,000 votes in its favor to less than 93,000 votes against it.[1]

18. The Constitution of 1894

Convention of 1894.

The constitution of 1846 gave to the State the most perfect system of government that it had ever possessed up to that time, and it remained for nearly half a century with no important changes. A convention was called in 1867 to revise the organic law, but the constitution which it drafted and submitted to the people was rejected — except a single article relating to the court of appeals. It was not until 1894 that another convention was called to revise the

[1] For the text of the constitution of 1846, with amendments, see Poore, *Charters and Constitutions*, pp. 1351–1378.

constitution. This was composed of many eminent and conservative men, who decided that it was wise to retain the constitution of 1846 as the basis of their work, and to recommend only such improvements as seemed necessary. Of the four hundred amendments submitted to the convention, only thirty-three were adopted. The principal changes introduced by the constitution of 1894 into the State government related to the government of cities and the organization of the judiciary.

Government of cities.

The new constitution made it the duty of the legislature to restrict the power of municipal taxation and the contracting of debts. It also provided for the classification of all cities according to population. The first class was made to include all cities having a population of 250,000 or more; the second class, all cities of 50,000 and less than 250,000; and the third class, all other cities. In order to separate municipal affairs from general politics, it was provided that, in the largest cities, the election of State officers should occur in even-numbered years, and the election of municipal officers in odd-numbered years.

Changes in the judiciary.

The changes in the judicial system were intended to make the administration of justice more simple and efficient. The court of sessions was abolished, and its jurisdiction given to the county court. The courts of oyer and terminer and the circuit court were also abolished, and their jurisdiction was conferred upon the supreme court. To relieve the court of appeals of its burdens, a new division of the supreme court was created, called the "appellate division." This new court was vested with final jurisdiction in nearly all cases involving issues of fact.

Miscellaneous provisions.

The constitution of 1894 also provided for a new apportionment of senate and assembly districts, and fixed the number of senators at fifty (50) and the number of assemblymen at one hundred and fifty (150). It guarded against abuses in legislative procedure by requiring all bills to be printed at least three days before their passage. It gave a new protection to the ballot, requiring ninety days' citizenship before election, thus preventing the abuses practised by campaign committees. It imposed upon the legislature the duty of providing free schools for all children in the State, and prohibited the use of money for sectarian schools. It discouraged the passage of special laws and the granting of exclusive privileges to particular corporations; and laid other restrictions upon the legislature intended to preserve the public credit and protect the interests of the people.[1]

19. Review of the Constitutional History

The government a growth.

From this brief sketch of the constitutional history of the State we can see that the government under which we live to-day was not made off-hand, or struck into shape at a single blow. It has been the result of a long process of growth. The wisest men of the State have contributed to its development; and the steps of its progress mark the stages in the growth of political wisdom on the part of the people. From a subject colony, first under the Dutch and then under the English, it has gradually been transformed into

[1] For the text of the constitution of 1894, see *Legislative Manual* of any recent year. Its most important parts are given below in Appendix B.

a great democratic commonwealth. From a small body of colonial officers, the government has expanded into a complex and elaborate system, in which the various political powers are distributed among different departments, each subject to a large number of rules and regulations, intended to make the whole government the agent of the people's will.

Sources of the constitution.

We have also seen that the sources of our constitution reach far back into the colonial system of Europe. The efforts of the Dutch to colonize the shores of Long Island and the Hudson led to the formation of local governments, which under the influence of the neighboring colonies of New England developed into the township system. The colonial system established by the English led to the organization of the counties and to a more efficient central government. The English colonial government, in fact, furnished the chief basis upon which our later institutions have been constructed. Our present governor may be said to be the English colonial governor transformed from an appointed officer of the king to an elected agent of the people. Our senate is the legislative council of the colony, reëstablished upon an elective basis. Our assembly is the colonial assembly modified and expanded to meet the wants of a democratic community. In a similar way, our judicial system has been developed through many changes from the colonial judicature.

English elements.

But the most important elements of our State constitution which have come from England are those which define the rights of the subject as against the government. For these guarantees of liberty we are indebted to the mother country, even though the

English king did not himself respect them. These rights the American colonists always claimed as their inheritance. They insisted upon them in the colonial assemblies of 1683 and 1691; and when the people of New York became an independent State, these rights were firmly fixed in their constitution.

American political ideas.

But we must not forget that, while the basis of our State constitution was at first laid upon foreign ideas and customs, the superstructure has been the product of American thought and of American experience. When we compare the old colonial government which George III. used as a means of oppression, with our democratic institutions of to-day, we may well claim that our present government is almost a new creation. Its foundations have been relaid upon republican principles. The sovereignty of the people has taken the place of the sovereignty of a king and parliament. The executive, legislative, and judicial branches have all been transformed under the influence of American ideas. The study of our present government, therefore, will not only give us the practical knowledge which every citizen should possess, but will also enable us to understand the principles which are essential to true democratic institutions.

PART SECOND

THE STRUCTURE OF THE GOVERNMENT

CHAPTER IV

CHARACTER OF THE STATE CONSTITUTION

20. References

Frothingham, *Rise of the Republic of the United States*, ch. 1, "Local Government and National Union"; Willoughby, *Nature of the State*, ch. 10, "Nature of the Composite State"; Jameson, *Constitutional Conventions*, ch. 2, "Of Sovereignty," ch. 3, "Of Constitutions"; Bryce, *American Commonwealth*, ch. 27, "The Federal System," ch. 28, "Working Relation of the National and State Governments," ch. 36, "Nature of the American State," ch. 37, "State Constitutions," ch. 39, "Direct Legislation by the People"; Cooley, *Constitutional Limitations*, ch. 3, "Formation and Amendment of State Constitutions," ch. 10, "Constitutional Protection of Personal Liberty," ch. 11, "Protection of Property by the 'Law of the Land,'" ch. 12, "Liberty of Speech and of the Press," ch. 13, "Religious Liberty"; Hitchcock, *American State Constitutions* (Questions of the Day Series); Davis, "American Constitutions" (in *Johns Hopkins University Studies in Historical and Political Science*, III. 9, 10); Jameson, "Constitutional and Political History of the States" (in *Johns Hopkins University Studies*, IV. 5); Lalor, *Cyclopædia of Political Science*, "States," "Bill of Rights"; Wilson, *The State*, §§ 1088–1091 (on the relation of State law to Federal law); Stevens, *Sources of the Constitution of the United States*, ch. 8, "The Bill of Rights"; Hinsdale, *The American Government*, Part III., "The State Constitutions."

21. The Federal and the State Constitution

The State and the

We have thus far considered the way in which our State government originated, and the various

changes through which it has passed. We are now to consider more specifically the structure of the government as it exists to-day, and the constitutional basis upon which it rests. But in doing this we must bear in mind the fact that our State is only one of many similar States, which are bound together in a greater body politic. While the State of New York has a government of its own and a constitution of its own, it is still not a completely independent State.[1] It is a part of the American nation, which has also a government and constitution of its own. The people are thus subject to two sets of laws — the one State, the other national. It is this double authority which forms the distinctive feature of our Federal republic. We should, therefore, first of all understand the relation of the State authority to the national authority.

Supremacy of the Federal Constitution.

In becoming a part of the American union, the people of this State united with the people of the other States to establish a higher law, to which all alike should be subject. By this act they granted certain powers to the Federal Government, and at the same time gave up the right to do anything inconsistent with the exercise of those powers. The common Federal Government was created by the establishment of a common Federal Constitution. Hence, the Constitution of the United States, and all laws made persuant to it, are, as the Constitution itself declares, "the supreme law of the land . . . anything in the constitution, or laws of any State to the contrary notwithstanding."[2]

[1] Jameson, *Constitutional Conventions*, pp. 60–65.

[2] *Constitution of the United States*, Art. VI. § 2.

The State and the Federal Government.

But there is another thing to be borne in mind. As the people of the State assisted in forming the Federal Constitution, and as they remain an integral part of the Federal union, so they still retain a share in the making and execution of the Federal law. They help to elect the President of the United States. Their legislature chooses persons to represent them in the United States Senate. Their territory is divided into "congressional districts," from which members are elected to the House of Representatives. So while the people of the State are subject to the Federal laws, they at the same time assist in making those laws, and thus take an active part in carrying on the Federal Government.

Federal authority within the State.

In considering the relation of the State to the Federal authority, it must be observed that the powers which have been granted to the United States are powers which are exercised not simply *over* the State, but *within* the State, and are binding directly upon the people. The Federal Government has in the State its own officers, which carry out its own laws, and to these laws every person in the State is amenable. If, for example, a person tampers with the mails, or counterfeits the United States money, or in any other way disobeys a Federal law, he becomes directly responsible to the Federal authority; and the State cannot interfere to shield him from the penalty of his act. The power of the State is thus limited by the powers which have been delegated to the Federal Government.

Powers forbidden to the State.

Moreover, there are certain powers which, by the Federal Constitution, the State has been expressly forbidden to exercise. The State cannot abolish its

republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence."[1] Under the power and duty thus imposed on the National government, it has frequently interfered in the affairs of the States, sometimes at the request of the legislature, sometimes at the request of the executive, sometimes without any request. Thus, in 1842, the militia of the State of Rhode Island was called out to suppress what was known as the Dorr rebellion, which was an attempt to overthrow the existing government of the State. In this sense it was a contest between two governments, each claiming to be the government of the State. The President, in his proclamation, declared that he would not interfere in the local affairs of the State, unless called upon by the legislature or executive of the State. The legislature was not in session, and could not be convened, and the governor called upon the President for assistance. The President, in response to this call, sent troops into the State, and thus overthrew the government which was seeking to overthrow the existing government. In this case the President was dependent on the action of the State authorities, but in other cases he has acted on his own motion. This is the case with the enforcement of the United States laws. The President is charged with the duty of executing the laws of the United States, and in the performance of this duty he may employ the military and naval forces of the United States. In this way he may interfere in the affairs of the States, and in this way he has frequently interfered. In the year 1877 he sent troops into several States, because, as he said, "the State governments refused or neglected to protect the rights and interests of the people, so imperiled that the National government could not maintain them." It appears, then, that the people of our States, and the rights of the States, are under the administration of justice in many of the matters relating to the security of person and property, and the punish-

[1] Constitution of the United States, art. 4, § 4.

[2] Amendment X.

ment of crime; for the education of our children, and the care of unfortunate and dependent citizens; for the collection and assessment of much the larger portion of our direct taxes, and for the proper expenditure of the same."[1]

Scope of the State constitution.

We may thus understand the nature and scope of the State constitution. It is the organic law of the commonwealth, which determines the methods in which the reserved powers of the State shall be exercised. It cannot deal with those powers which are either delegated to the Federal Government, or forbidden to the State. It may be described as the highest expression of the people's will, in all that relates to purely State affairs. In considering further the nature and scope of the State constitution, we shall see that it is characterized by three most important features; (1) it is made by the people, as the ultimate source of political power; (2) it secures the people in the possession of certain fundamental and essential rights; and (3) it determines the frame of the government by which the various powers of the State are exercised and made effective.

22. The Making of Constitutional Law

Early constitution making.

The first constitution of the State was drawn up and adopted by a convention composed of delegates elected specially for that purpose. This was done, as we have seen, in pursuance of a resolution of the Continental Congress requesting the several States to form new governments. This constitution was never submitted to the people; nor did it contain any

[1] Garfield, *Works*, I. 733.

provision for its own revision or amendment. When the defects of the first constitution became apparent, and the time came for changing it, the legislature called upon the people to elect delegates to a new convention for the purpose of considering certain specific questions submitted to it. The convention thus called adopted the amendments of 1801, which were put into force without being submitted to the people. Our earliest constitutional law was in this way made by the representatives of the people, and not by the people themselves.

Direct legislation by the people.

The opinion soon grew up that the fundamental law of the State should be established directly by the people of the State. Hence the constitution of 1821 was not only adopted by a convention of delegates, but was submitted to the people for ratification. From this time the new principle became recognized in the State, that a constitutional law can be established only by the direct legislation of the people. This principle applies not only to the case where the whole constitution is to be revised, but to the case where any amendment or particular modification of the constitution is proposed. At present, the law regarding the amendment and the revision of the constitution is clearly defined.

An amendment to the constitution requires two steps — proposal and ratification. (1) It is proposed by the legislature, and must receive the approval of a majority of each house. But this is not all. It must also receive the approval of a majority of the members of each house of the next succeeding legislature. The proposed amendment, therefore, cannot be submitted to the people until it has received the approval of

two successive legislatures. (2) It is ratified and becomes a law, when it is submitted to a popular vote at a general election, and is approved by a majority of the electors voting upon it. This does not mean that it requires a majority of all the votes cast in the election; it means simply that the number of votes cast *for* it must be greater than the number cast *against* it.[1]

Constitutional revision.

A revision of the entire constitution is regarded as something more important than a special amendment, and requires three steps. (1) The question is first submitted to the people whether or not there shall be such a revision. The law provides that at least once in every twenty years, beginning with the year 1916 (and oftener if the legislature so provides), the question, "Shall there be a convention to revise the constitution and amend the same," shall be decided by a majority of the electors of the State. (2) In case the people decide that there shall be a revision, a convention is called for the purpose of considering any defects in the existing constitution, and of preparing any changes or amendments which may be thought necessary for its improvement. (3) The newly prepared constitution, or the amendments proposed by the convention, must then be submitted to the people for ratification within six weeks after the adjournment of the convention.[2]

The constitutional convention.

The convention called to revise the constitution is, in many respects, the most important deliberative body which is ever brought together in the State, since it passes in review the whole body of our constitutional

[1] *Constitution of New York*, Art. XIV. § 1.
[2] *Ibid.*, Art. XIV. § 2.

law. It is composed of three delegates from each senate district, and fifteen delegates at large. It has the privileges usually given to legislative bodies. Its members receive the same pay as the members of the State assembly. It determines its own rules of procedure, chooses its own officers, judges of the qualification of its own members, and has the power of filling vacancies caused either by death or resignation. Any amendment which it proposes supersedes any similar amendment proposed by the legislature.[1]

23. Constitutional Rights of the People

"The Bill of Rights."

The first thing which the people have done in the constitutional law is to secure their own liberties from encroachment. There are certain rights so fundamental and essential that their protection is not left to the will of those who happen to be in authority, but they are protected by the organic law of the State. These rights form the great features of constitutional liberty, and their declaration is usually called a "bill of rights." They, in fact, make up the best part of our political inheritance from the constitution of England. They are regarded as "constitutional rights," because they do not depend for their existence upon any act of the legislature, but are guaranteed by the constitution against any law which the legislature itself may enact.

Protection from disfranchisement.

First among the provisions which are intended to protect the fundamental rights of the people, is that which secures every member of the State from the

[1] *Constitution of New York*, Art. XIV. § 3.

exercise of arbitrary power. "No member of the State shall be disfranchised, or deprived of any of the rights and privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers."[1]

Liberty of thought and speech.

Again, the constitution secures every one in his liberty of thought and speech, the free exercise of his judgment, and the free expression of his opinions upon religion, and all other subjects, when not infringing upon the peace and safety of the community. "The free exercise and enjoyment of religious profession and worship, without discrimination or preference," is assured to all persons within the borders of the State.[2] Every citizen may also "freely speak, write, and publish his sentiments upon all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech, or of the press."[3]

Right of private property.

The right of private property is also secured against arbitrary encroachment. The State may, it is true, take possession of lands when the owner dies without heirs, or on the failure of all other titles. It may also, by the exercise of its right of "eminent domain," take possession of private lands for public uses — but only on the condition of giving to the owner a just compensation. In the latter case, the right of private property is protected by the constitution; because the owner is entitled to receive a value equal to that which he has been obliged to forfeit, such value to be determined by a jury of his fellow-citizens.[4]

[1] *Constitution of New York*, Art. I. § 1. [2] *Ibid.*, Art. I. § 3.
[3] *Ibid.*, Art. I. § 8. [4] *Ibid.*, Art. I. §§ 7, 10.

Right to a fair trial.

There are, moreover, certain safeguards granted to persons charged with crime. Every man is presumed to be innocent until he is proved to be guilty. Therefore the constitution guarantees to every one a fair trial. It also grants to every one the right to be tried by a jury. It gives to a person who is imprisoned the privilege of the writ of *habeas corpus*, whereby he may be brought before a judge, that the question may be determined whether or not he is justly held. It prohibits the fixing of excessive bail, and the imposing of excessive fines or cruel and unusual punishments. It does not allow a person who is charged with a capital or otherwise infamous crime to be tried unless he has first been indicted by a grand jury; it also grants to such a person the right of counsel, and does not compel him to be a witness against himself. Finally, it protects a person from being tried a second time for an offence of which he has been once acquitted. Thus every person, innocent or guilty, has the right to be tried fairly, and by due process of law.[1]

Political privileges.

We may also mention certain political privileges which are secured to the people by the constitution. The people retain the right to assemble and discuss public questions, and the right to petition the government, or any department of the government, for a redress of grievances, or to suggest any subject which in their view requires the attention of the public authorities.[2] These privileges, and the rights before referred to, are solemnly sanctioned by the constitution, because they are regarded as lying at the basis of a just and free government.

[1] *Constitution of New York*, Art. I. §§ 2, 4, 5, 6. [2] *Ibid.*, Art. I. § 9.

24. Structural Features of the Constitution

The "frame of government."

However important it may be to define the fundamental rights of the people, the main part of the constitution is made up of provisions which relate to the structure or organization of the government. These structural features determine the mode in which the political powers of the State are to be exercised. Without a well defined "frame of government," no political society could attain the ends for which it exists. The State has therefore, in its constitution, provided the methods by which it is to be organized and governed. We shall see that the political organization of the State involves the following important features:—

Basis of political authority.

In the first place, the government must have a well-defined basis. The question must be settled as to where the ultimate source of political power is located. It is true that in a free commonwealth the ultimate power is said to reside in the people. But not all the people have a voice in determining the policy or the action of the government. The constitution, therefore, indicates what part of the people have a share in the exercise of political powers; and consequently it may be said to determine the basis of political authority.

Division of political powers.

Again, it has been found that the various powers of the government may be more efficiently exercised if divided, and distributed among different sets of officers. The government is hence separated into different branches, or departments. In general, the *legislative* branch considers the needs of the people, and enacts laws to provide for these needs. The

executive branch sees that the laws passed by the legislature are carried into effect. The *judicial* branch applies the law to special cases, and settles controversies which may arise in regard to disputed rights. But this general division of powers is not sufficient. For example, the legislative branch is divided into two houses, which coöperate in the work of legislation. The executive branch is separated into different departments of administration. And the functions of the judicial branch are divided among various courts, having different kinds of jurisdiction.

Territorial divisions.

Moreover, the work of the government may be greatly facilitated by dividing the territory of the State into local districts, like townships and counties, villages and cities. These territorial divisions may be recognized as centers of local government, and also as administrative districts to aid in carrying into effect the general laws of the State.

Offices and officers.

The constitution also provides for the various kinds of offices, whether general or local, which are necessary to carry on the work of the government. It determines, too, the kind of persons who are to fill these offices, their qualifications, their duties, their term of office, and the mode in which they are to be chosen. In the eye of the constitution, a public office is a public trust, and an officer is an agent of the people whose first duty is fidelity to the State.

General features of organization.

As we consider more particularly the structure of the government of the State, we shall keep in mind these general features of political organization. We shall see how the foundation of the government is laid in the will of the people, and how the will of the people is expressed by means of the ballot. We shall see

how the central government of the State is organized by the distribution of its various powers, which are intrusted to different kinds of officers. We shall see how the local divisions of the State are arranged, and how they are organized so as to enable each separate community to control its own affairs, and also to aid the central government in the general administration of the State's affairs.

CHAPTER V

CITIZENSHIP AND THE SUFFRAGE

25. References

Johnson, *Cyclopædia*, "Citizenship," "Naturalization"; Lalor, *Cyclopædia of Political Science*, "Naturalization"; Wilson, *The State*, revised edition, §§ 1119–1125 (on national and State citizenship); Bryce, *American Commonwealth*, Part III., "The Party System"; Bluntschli, *Theory of the State*, Eng. trans., Book VII., "Sovereignty and its Organs. Public Services and Public Officers"; Woolsey, *Political Science*, Part III. ch. 3, "State, Sovereignty, People"; Cooley, *Constitutional Limitations*, ch. 17, "Expression of the Popular Will"; Wigmore, *The Australian Ballot System*.

Constitution of the United States, Amendment XIV. § 1; *Constitution of New York*, Art. III., "Voters"; *General Laws of New York*, ch. 4, "The Naturalization Law," ch. 6, "The Election Law."

26. The Government and Citizenship

The popular basis of government.

It is a fundamental principle of republican institutions that the government rests upon the will of the people. This is true in a general sense. But it is quite evident that all the people of the State do not have a share in the government — as is the case with minors. It is also evident that not all the people who live in the State are even members, or citizens, of the State — as is the case with foreigners. Hence, to have a clear idea of what is meant by the "popular basis" of government, we must know, first of all, what part of the people of the State are citizens of the State; and next, what part of the citizens of the

State are admitted to a share in the government of the State.

Citizens, native and naturalized.

A citizen is defined to be a "person, native or naturalized, of either sex, who owes allegiance to the government, and is entitled to reciprocal protection from it."[1] Speaking generally, every person is regarded as a native-born citizen who is born within the State, of parents who are subject to the State's authority. A naturalized citizen is one who, though foreign born, is admitted by a due process of law to the privileges of citizenship. Every person who has been duly naturalized has the same rights and immunities as though he were native born.

National and State citizenship.

The general law regarding naturalization is established by the Federal Government. A person who is a citizen of the United States, either native or naturalized, is also a citizen of the State wherein he resides.[2] There is therefore in this country a kind of double citizenship. As a citizen of the United States, one owes allegiance to the Federal Government, and is entitled to its protection. As a citizen of the State, one owes allegiance to the State government, and is entitled to its protection. But there need be here no conflict of duties. Since the State is an integral part of the whole country, and the Federal Constitution is the supreme law of the land, one's allegiance to his State is subordinate to his allegiance to the United States.

Duties and rights of citizenship.

Citizenship involves both a duty and a right — the duty of allegiance, and the right of protection. The citizen of the State is first of all bound to respect the

[1] Webster's International Dictionary.

[2] *Constitution of the United States*, Amendment XIV. § 1.

laws of the State, to render to the State whatever service he is able, and to support in every way possible its authority. On the other hand, he is entitled to all the rights and privileges which the law affords, in respect to his person and property. These rights are essential to citizenship, and are distinguished as "civil rights." They are possessed alike by all citizens, without regard to age, sex, or color.

27. The Elective Franchise

The right of suffrage.

While all the citizens of the State possess "civil rights," they do not all possess "political rights." While they are all entitled to protection, they are not all entitled to the exercise of power. The supreme power of the State is in fact vested in those persons only who are permitted by the constitution to exercise the elective franchise. Or, as it has been stated by a judicial authority, "The people for political purposes may be considered as synonymous with qualified voters."[1] The right of suffrage, therefore, is not a right based upon nature, but is a franchise granted by the State to a part of its citizens.

General qualifications of voters.

The persons who are entitled to exercise the right of suffrage, and who thus form the political basis of the government, are definitely described by the constitution of the State. The general qualifications which a voter must have are the following: He must be a male citizen of the age of twenty-one years; he must have been a citizen for ninety days; and he must have been an inhabitant of the State for at least one year next preceding the election at which he offers his vote.[2]

[1] Blair *v.* Ridgely, 41 Missouri, 63.

[2] *Constitution of New York*, Art. II. § 1.

Residence as a condition of voting.

Besides these general qualifications, a voter must also have some particular residence within the State, which he has retained for a certain length of time. He must have been a resident of the county for at least four months; and a resident of the election district for at least thirty days. This gives an opportunity for a person to be known, and his claims as a voter to be tested. But a person who has once obtained a definite residence is not regarded as having lost it by reason of being absent in the service of the United States; or while a student of any seminary of learning; or as an inmate of a charitable institution, or a public prison. A person who is otherwise qualified to vote is prohibited from the exercise of this right if convicted of having offered or received bribes at an election, or if convicted of any infamous crime.[1]

Relation of voters to parties.

As the political power of the State ultimately rests in those citizens who have the right of suffrage, the will of the State is expressed by the opinion of the majority (or the plurality) of the voters. Every person who has the right to vote at all has the right to vote as he pleases. But it is customary for those who have common political opinions, or common political ends, to unite, and thus to form a party. A party is, in fact, a purely voluntary association of voters, and no one is obliged to join it. But it is yet recognized by the law as a useful part of the political machinery of the State. Although it may sometimes become corrupt, and be used for personal ends, still it furnishes an efficient means for organizing and directing public opinion on important political questions.

[1] *Constitution of New York*, Art. II. §§ 1–3.

[illegible]

Even a voter will assess [illegible] make its power effective [illegible] the existing parties, or else [illegible] sons having similar views [illegible] party, or something like it.

A party becomes organised [illegible] officers and committees—a local committee [illegible] committee and a central committee—to take charge of its interests. In a party [illegible] at a general election it will [illegible] it is customary to put [illegible] recognised by the law [illegible] maries and conventions, [illegible] Parties are under the management [illegible] mittees; but it often happens that an influential man may get control of the State committee and [illegible] an autocratic party leader or a "boss." The latter may be said against the "boss" that he remembered that in a community of free voters a party leader can long retain his position without the acquiescence of the rank and file of the party.

Party officers and committees

28. Nominations of Officers

We can see that the gift of the elective franchise **confers** upon a person certain rights and duties not **possessed** by the one who has not received that franchise. When the citizen becomes a voter, he becomes in reality a factor in the government. He is called upon to take part in the political activity of the State; and he also becomes responsible in part for the government, both of the whole State, and of the locality in which he resides. The gift of the ballot makes

Rights and duties of voters

him a sharer of sovereignty. He may now exercise his political power in two ways: first, in voting upon political questions submitted to the people, as in the case of a proposed constitutional amendment; and second, in taking part in the nomination and election of public officers, who are to act as his agents in directing the affairs of the State. The latter is the most ordinary way in which the citizen is called upon to exercise the right of suffrage. The exercise of his political rights and duties may therefore be said to begin with the nomination of public officers.

Party nominations.

The most usual way of nominating officers is through the regular party organizations. Any body of voters which was able to cast the requisite number of votes, that is, ten thousand, at the last gubernatorial election, is authorized by law to make a "party nomination." The persons thus nominated receive a "party certificate of nomination," signed by the officers of the party, and are entitled to run as regular candidates for election.[1]

Primaries and conventions.

The machinery by which party nominations are made comprises the "primary," and the "convention." The "primary" is the lowest political assembly authorized by law, and may be said to lie at the basis of the whole political system. It is a meeting of the qualified voters, belonging to the same political party in an election district. It is open for a certain number of hours on a specified day; and during that time the electors may cast their votes for nominations to the lower offices, and for delegates to the party convention. The "convention" is an assembly of delegates representing the party in the county or the

[1] *General Laws of New York*, ch. 6, § 56.

State, convened for the purpose of nominating the higher officers, and for transacting any other business affecting the interests of the party.[1]

Independent nominations.

But the electors are not compelled to vote for the candidates nominated by any regular party organization. They can, if they so desire, choose independent candidates by preparing what is called an "independent certificate of nomination." Such a certificate must be signed by a certain number of voters. The number varies from six thousand, when the officers are to be voted for by all the electors of the State, to one hundred, when they are to be voted for only by the electors in a single town, village, or ward in a city.[2]

Publication of nominations.

It is necessary that all certified nominations, whether made by a party, or made independently, be duly published in a certain number of newspapers at least six days before the election, — or in the case of villages, conspicuously posted at least one day before the election. This is to enable all voters to be well informed as to the candidates presented for their suffrages. The duty of making the publication rests upon the county clerk, in the case of general nominations; and upon the city clerk, or the town or village clerk, in the case of local nominations.[3] But in the city of New York this duty rests, in either case, upon the "city board of election."

Preparation of ballots.

All the certified nominations must, before the day of election, be printed upon official ballots prepared at public expense. The form of this ballot is fixed by law, and is known as the "Australian ballot," or

[1] *General Laws of New York*, ch. 6, § 50.
[2] *Ibid.*, ch. 6, § 57. [3] *Ibid.*, ch. 6, § 61.

the blanket ballot, which contains the names of all candidates. The names of the candidates of the different parties are arranged in separate columns, each headed by the "party device," with a blank column in which a voter may write the name of any person not regularly nominated. Upon this ballot are printed all the directions necessary to instruct the elector how to cast his vote, whether he wishes to vote a "straight" ticket, or a "split" ticket.[1]

29. Machinery and Conduct of Elections

Time and place of elections.

The law regarding the machinery and conduct of elections is very explicit, and it will be possible for us to review only its most general features.[2] It provides that a general election shall be held annually, on the Tuesday next after the first Monday in November. It also provides that the polls shall remain open continuously from six o'clock in the morning until five o'clock in the afternoon. It furthermore provides that the State shall be divided into "election districts," each one of which shall comprise, as nearly as possible, four hundred voters — a town or a ward of a city being subdivided, if necessary, for this purpose.

Election officers.

In every election district there must be the following classes of election officers: (1) four inspectors of election; (2) two poll clerks, and (3) two ballot clerks — each class being divided between the two chief political parties. The inspectors of election are organized as a board by the appointment of one of their number as chairman. The board thus organized has

[1] *General Laws of New York*, ch. 6, §§ 80–89.

[2] *Ibid.*, ch. 6, §§ 100–114.

general charge of the election, being authorized to make all needful preparations for the event, and also to preserve order at the polls.

Registry of voters.

Before every general election the board of inspectors is required to hold from two to four meetings at which the electors of the district are entitled to register their names as qualified voters. To insure correctness and justice in the making of the registry, a person may, if his name is presented in person to the inspector and is rejected, appeal to a court for an order to have his name properly recorded. On the other hand, if an unqualified person has been registered, any elector may apply to the court for an order to have the name of such person stricken from the list. The registry when completed becomes an official list of all electors who are entitled to vote at any election during the following year — except in the case of towns and villages, where no registration is required.

Election appurtenances.

The board of election is required to provide all the appurtenances necessary for the process of voting. These comprise, besides a suitable polling place, the booths where the voter may conveniently and secretly prepare his ballot; boxes in which the ballots are deposited; guard-rails, marking off the space within which no one is permitted except the election officers, the person depositing his vote, and two "watchers" from each of the parties or organizations interested in the election. In the place of booths and ballot-boxes, the law permits the use of "voting-machines," which are made to receive and record the votes cast.

Challenging of voters.

A person who offers his vote at the polls and is suspected of not being a qualified voter may be

"challenged." In this case he is obliged to answer questions put to him regarding his qualifications. If his answers do not appear satisfactory to the inspectors, he must, if he persists in his right to vote, take an oath that he possesses the qualifications specified by the law.

Canvassing of votes.

As soon as the polls are closed, the "canvassing" of the votes begins, that is, the counting of the votes properly cast, and the publishing of the result of the election.[1] The board of inspectors in each election district first count the votes cast for each candidate in that district; and this must be done "in plain view of the public." The result of the election in the district is publicly announced; and it is also recorded in a written certified statement to be forwarded, in case of a general election, to the county board of canvassers. The county board of canvassers consists of the supervisors of the county, who receive and summarize the results received from the election districts, and who also prepare a certified statement to be forwarded to the State board of canvassers. This latter board consists of five executive officers of the State, including the secretary of state. The State board receives and summarizes the results received from the county boards, and makes a certified statement of the result of the whole election — a copy of which is sent to each of the officers elected, and a record made in the office of the secretary of state.

30. Protection of the Ballot

General provisions.

If the ballot is the basis of a free government, its protection is necessary for the security of our free

[1] *General Laws of New York*, ch. 6, §§ 130–142.

[illegible]

institutions. [illegible] ing the number [illegible] intended to secure the [illegible] We may see this in the [illegible] ballot". In the first instance [illegible] voters: in the second [illegible] paring his ballot [illegible] challenge a suspected [illegible] "certificates" required [illegible] returns. The State seems [illegible] secure perfect freedom [illegible] voter in exercising the right [illegible]

The State secures [illegible] by giving him an [illegible] general election is made [illegible] this, any person [illegible] is entitled to vote [illegible] his employer to absent himself [illegible] hours, while the polls are open [illegible] shall be made from the wages [illegible] election, and no other penalty [illegible] him by his employer in respect [illegible]

The law also endeavors [illegible] elections by preventing the use [illegible] It is of course proper [illegible] ing to his judgment [illegible] public and private discussion. But there [illegible] influence which is improper. [illegible] committees and candidates for office [illegible] pay the fees of those making [illegible] ralized, on the ground that the [illegible] would be [illegible]

[illegible]

Again, to shield the voter at the polls, no electioneering is permitted within one hundred feet of the polling place.

Bribery and betting.

The explicit prohibition of bribing and betting at elections may be seen in the following form of the oath which may be required of any person who is suspected of these acts, and is challenged at the polls: "You do swear (or affirm) that you have not received, or offered, do not expect to receive, have not paid, offered, or promised to pay, contributed, offered, or promised to contribute to another, to be paid or used, any money, or other valuable thing, as the compensation or reward for the giving or withholding of a vote at this election, and have not made any promise to influence the giving or withholding of any such vote; and that you have not made, or become directly, or indirectly interested in any bet or wager depending on the result of this election." [1]

Election expenses.

To prevent the improper use of money, all the necessary expenses of election are charged to the public — to the town, village, city, or county. Furthermore, the corruption growing out of the use of money by candidates is greatly curtailed by the duty laid upon candidates to render an itemized account of their election expenses.[2] All these provisions show how high an estimate the State places upon the sanctity of the ballot, as the foundation of popular government, and as the means by which the will of the people can be expressed and made effective.

[1] *General Laws of New York*, ch. 6, § 108.

[2] *Laws of New York, 1890*, ch. 262. — "An act to promote the independence of voters at public elections, enforce the secrecy of the ballot, and provide for the printing and distribution of ballots at public expense."

CHAPTER VI

THE CENTRAL GOVERNMENT OF THE STATE

31. REFERENCES

Fiske, *Civil Government in the United States*, ch. 6, "The State Governments"; Wilson, *The State*, §§ 1126–1208, "Central Government of the State"; Bryce, *American Commonwealth*, ch. 40, "The State Legislatures," ch. 41, "The State Executive," ch. 42, "The State Judiciary"; Cooley, *Constitutional Limitations*, ch. 5, "Powers which the Legislative Department may Exercise," ch. 6, "Enactment of Laws"; Hinsdale, *American Government*, ch. 51, "The State Legislatures," ch. 52, "The State Executives," ch. 53, "The State Judiciary"; Bluntschli, *Theory of the State*, Part III. ch. 7, "Modern Principle of Division of Powers."

Constitution of New York, Art. III., "The Legislature," Art. IV., "Executive Department," Art. V., "State Officers," Art. VI., "Judiciary"; *General Laws of New York*, ch. 3, "The Civil Service Law," ch. 7, "The Public Officers Law," ch. 8, "The Legislative Law," ch. 9, "The Executive Law"; *New York Code of Civil Procedure*, ch. 3, "Jurisdiction and Organization"; *The Legislative Manual.*

32. THE LEGISLATIVE BRANCH

The government, central and local.

The government of the State, strictly speaking, is made up of the great body of public officers who have been elected by the people, or appointed by those who have been elected, and to whom are intrusted the interests and welfare of the community. A part of these officers have supervision of the general interests of the whole State, and make up what we call the "central government." Other

sets of officers look after the special interests of particular localities, and make up the "local governments" of the State. But whatever may be the extent of the interests over which they preside — whether State or local — they are all alike the representative agents of the people, and are all responsible to the voters of the State for the faithful performance of the duties assigned to them.

Branches of the central government.

The first thing to be noticed in connection with the central government of the State is the distribution of the various public officers into separate groups, or branches. Those officers who are authorized to pass the laws necessary to protect the rights and promote the welfare of the community form the "legislative branch." Those who are called upon to execute the laws and maintain public order make up the "executive branch." And those who preside over the settlement of disputes and apply the law to special cases form the "judicial branch." The various powers of the government derived from the people are thus intrusted to different groups of officers, who thereby become the special agents of the people. The acceptance of any office — whether legislative, executive, or judicial — not only confers upon the incumbent a public honor, but imposes upon him a public duty. This separation of the powers of government into distinct and independent branches is regarded in this country as necessary to the preservation of political liberty. But we shall see that this theoretical distinction is not always in fact strictly preserved.

Two houses legis-

The legislative branch of the government consists of two houses — the Senate and the Assembly. The

former comprises fifty (50) members, elected once in two years; and the latter comprises one hundred and fifty (150) members, elected every year. The members of each house are apportioned throughout the State according to the population. For this purpose an enumeration of the inhabitants is made every ten years. The territory of the State is divided into fifty "senate districts," and one hundred and fifty "assembly districts" — so that each senate district elects one senator, and each assembly district one assemblyman. In the arrangement of senate districts, the county is made the territorial basis. For example, a senate district may comprise a single county, or two or more counties, or a county may be subdivided into two or more senate districts, provided that such districts are wholly within the county. In arranging the assembly districts, each county is entitled to at least one assemblyman (except Hamilton, which is for this purpose regarded as a part of Fulton). The county may be subdivided into two or more assembly districts, if the population requires more than one representative.[1]

Qualifications and privileges of members.

Members of the legislature must be citizens of the State and twenty-one years of age. But no person is eligible to either house, who is, or has been, within one hundred days previous to his election, a member of the United States Congress, a civil or military officer of the United States, or an officer of any city government; and his acceptance of any such position after his election vacates his seat in the legislature.[2] An important privilege granted to members of each

[1] For the limits of various senate and assembly districts of the State, see the *Constitution of New York*, Art. III. §§ 3, 4, 5.

[2] *Constitution of New York*, Art. III. § 8.

house is their exemption from arrest in a civil action, while in attendance upon a session. Furthermore, a member cannot be questioned in any other place for the statements made on the floor of either house.

Organization of the legislature.

The legislature meets annually on the first Wednesday of January, at Albany. The two houses are organized by the election of officers, and the appointment of legislative committees. The presiding officer of the Senate is the lieutenant governor, who is called the "president of the senate." In case of his absence, a temporary president may be elected by the members. The presiding officer of the Assembly is chosen from and by the members, and is called the "speaker of the assembly." Each house has a large number of subordinate officers, such as clerks, stenographers, janitors, etc., some of whom are appointed by the presiding officer, and some chosen by the house. Each house makes its own rules of procedure and is judge of the qualifications of its own members. A majority of each house constitutes a quorum to do ordinary business; but in certain cases three-fifths of the members are required.[1] An essential feature of the organization of each house is the appointment of legislative committees for the consideration of the various classes of bills which are proposed. These committees are appointed by the presiding officer of each house, to consider in detail the different matters which are made the subject of legislation — such as finance, taxation and retrenchment, canals, railroads, public education, agriculture, cities, etc. The work of these committees forms an

[1] *Constitution of New York*, Art. III. § 25.

important feature in the process of legislation. In all matters of legislation the two houses are equal and coördinate, even bills of revenue being introduced in either house. The legislature has not only legislative powers, but also certain executive and judicial powers. In matters of appointment, the Senate may approve or reject the nominations made by the governor. In the impeachment of public officers, the charges are made by the Assembly, and the trial takes place before the senators, who, together with the judges of the court of appeals, constitute a special court.

33. Processes of Legislation

General provisions.

The chief duty of the legislature is to pass laws which shall protect and promote the interests of the State. Certain rules of procedure have been laid down which are intended to guide the members in their work, and also to prevent hasty legislation. Every law must be passed by both houses, and requires the assent of the majority of the members elected to each house. But bills appropriating money for local or private purposes require the assent of two-thirds of the members elected. Any bill which originates in one house may be amended in the other. The enacting clause of all bills is this: "The People of the State of New York represented in the Senate and Assembly do enact as follows;" and no law can be enacted except by being presented in the form of a bill.

The "three readings."

The passage of a bill through either house is marked by three important stages, called the "three readings." (1) A bill may be introduced in either

house by a member, or by a committee, or by a message from the other house, when it is read for the *first* time (generally by title) and referred to the appropriate standing committees. (2) After its due consideration by this committee, if it is thought worthy of further consideration, it is reported to the house, with such modifications as the committee may see fit to suggest. If the report is approved, the bill is placed upon the order of the *second* reading, when it is read and debated, section by section, and may be adopted in whole or a part, or amended, or referred to the "committee of the whole" for further consideration. (3) After the passage of the bill upon the second reading, it must be printed and placed upon the desks of the members for at least three days before its final passage — unless the governor requests its immediate passage. Upon its *third* and last reading, it is presented to the house for final passage, when no amendments are permitted, and the yeas and nays are entered upon the journal.

Approval of the governor.

When a bill has passed both houses it is sent to the governor for his approval. If he approves it, he signs it and it becomes a law. If he disapproves it, he may "veto" it, that is, return it with his objections to the house in which it originated. The bill may become a law without the governor's signature, in two ways: (1) if he does not return it within ten days (Sundays excepted) after he receives it; or (2) if it again passes both houses by a two-thirds vote. No bill, however, can become a law after the final adjournment of the legislature, unless approved by the governor within thirty days after such adjournment. It will thus be seen that the governor forms, in a very

important sense, a part of the legislative branch of the government.

34. Restrictions upon the Legislature

General restrictions.

The general law-making power of the State is not, like that of the United States Congress, limited to specially defined subjects. It extends to any subject which the legislature sees fit to act upon, provided it is not expressly prohibited from such action by the constitution of the State, or by the Constitution of the United States. In other words, the United States Congress may do nothing except what it has been expressly authorized to do; the State legislature may do anything in the way of legislation that it is not expressly prohibited from doing. There are some things, however, that it is prohibited from doing. In the first place, it may not pass a law repugnant to the Federal Constitution; if it should do so, such a law would be declared void. Its authority is thus restricted to the reserved powers of the State. In the next place, it is prohibited from doing certain things by the State constitution. For example, to prevent certain underhanded practices, it is forbidden to pass an appropriation bill which contains any provision not relating to the appropriation.[1]

Private and local bills.

One of the most important restrictions imposed upon the legislature relates to the passage of private or local bills. It may not pass such a bill embracing more than one subject, and that must be expressed in the title. There are certain bills of a private and local nature which it may not pass at all, such as those

[1] *Constitution of New York*, Art. III. § 22.

which relate to the changing of the names of persons; laying out or altering highways; locating or changing county seats; incorporating villages, and many other matters which will be found specified in the constitution.[1] The general purpose of these restrictions is to prevent special legislation upon matters which can be more properly provided for by general laws.

Financial restrictions.

Certain restrictions are also placed upon the legislature relating to the use of the people's money, and to the credit of the State. The legislature may not lend the State's money or credit for the benefit of an individual or a corporation. It may not incur debts to meet current expenses to an amount exceeding $1,000,000, except to defend the State in time of war or insurrection, and the money thus raised must be applied to no other purpose. No extraordinary debt may be contracted, unless authorized by law for a specified object, and unless it has been submitted to and approved by the people.[2]

35. The Executive Branch

The State executive.

The executive branch of the government consists of those officers who are elected by the people (or appointed by those who are elected) for the purpose of carrying into execution the laws passed by the legislature. We may say that the legislature formulates the will of the people, and the executive puts it into operation. In considering the executive branch of the State government, we should notice that it is

[1] *Constitution of New York*, Art. III. § 18.
[2] *Ibid.*, Art. VII. §§ 1–4.

somewhat different from the corresponding branch of the Federal Government. In the latter all executive power is centralized in the hands of the President, who is elected by the people, the other executive officers being subordinate and responsible to him. In the State government, on the other hand, the executive power, while it is said to be vested in the governor, is in fact distributed among several officers, each of whom is elected by the people and responsible to them. The governor is not, therefore, like the President, solely and exclusively responsible for the execution of the laws. This responsibility rests upon others as well as upon the governor.[1]

Governor and lieutenant governor.

The governor is yet the most important executive officer of the State. He is elected by the people, and holds his office for two years. He must be a citizen of the United States, thirty years of age, and a resident of the State for five years preceding his election. He is the representative head of the State, and is commander-in-chief of the military and naval forces. He has, in connection with the Senate, the appointment of a large number of administrative officers. Besides his general duty to see that the laws are executed, so far as he is able, he has special relations to the legislature. He may convene both houses, or the senate only, on extraordinary occasions. At every session of the legislature he must send to it a "message" describing the condition of the State, and recommending such measures as he thinks best. By his "veto power," previously described (p. 86), he has a prominent part in making the laws. The gov-

[1] For the distinction between the Federal and State executives, see Wilson, *The State*, revised edition, §§ 1183–1185.

ernor also exercises a kind of judicial power, in that he may reprieve, pardon, or commute the sentence of criminals convicted in the courts — except in the cases of treason and impeachment. In case the office of governor becomes vacant from any cause, its duties devolve upon the lieutenant governor, who must have the same qualifications as the governor, and is elected in the same way. The ordinary duty of the lieutenant governor is to preside over the Senate. In case of the death of both governor and lieutenant governor, the office of governor devolves upon the president of Senate, and afterward upon the speaker of the Assembly.[1]

Other elective officers.

Besides the governor and lieutenant governor, there are elected at the same time and for the same term, five other officers, who possess important executive duties. (1) The secretary of state has charge of the State records, superintends the printing and publication of the laws, and keeps the seal of the State, which is necessary to authenticate the State documents. (2) The comptroller is the chief financial officer of the State: he reports to the legislature the annual revenues, expenditures, and estimates; superintends the collection of the State taxes; audits and settles the accounts due to and from the State; and issues the warrants, or orders, for all moneys drawn from the treasury. (3) The treasurer is the custodian of all moneys paid into the treasury from whatever source, and pays out the money on warrants issued by the comptroller. (4) The attorney general is the law-officer of the State; he represents the State in all suits in which it is interested; prosecutes criminals when so requested to do by the governor

[1] *Constitution of New York*, Art. IV. § 7.

or justices of the supreme court; and advises the State officers upon questions of law. 15. The State engineer and surveyor has charge of the laying out of the public lands, and has general supervision over the construction and improvements of the canals.[1]

Appointive officers.

In addition to these elective officers there are a large number of appointive officers, who are charged with special administrative duties, and whose terms vary from three to eight years. Among the most important of these are the superintendent of public works, of the banking department, of the insurance department, and of the State prisons. These are appointed by the governor, with the consent of the senate. The superintendent of weights and measures is appointed by the governor, lieutenant governor, and secretary of state; the superintendent of public buildings is appointed by the governor, lieutenant governor, and the speaker of the Assembly. The superintendent of public instruction is chosen by the joint ballot of the Senate and Assembly.

Administrative boards.

Besides these individual officers, much of the administrative work of the State is put into the hands of commissioners and boards, generally appointed by the governor and the senate, such as the civil service commissioners, railroad commissioners, forest commissioners, commissioners of claims, the board of charities, and many others. All these officers have their duties assigned to them by law, or by the constitution, and are performing public services in the interests and for the welfare of the people.[2]

[1] *Constitution of New York*, Art. V. §§ 1, 2.

[2] See *Legislative Manual*. There are nearly seventy of these special administrative officers and boards — including managers of public insti-

Civil Service examinations.

The offices and positions of trust and employment in the State (except those of a military character) make up what is called the "civil service." To secure fit persons for these positions, and to curtail the abuses growing out of the "spoils system," is the purpose of civil service reform. The State has committed itself to this reform. The constitution provides that appointments shall be made according to fitness, to be ascertained, so far as practicable, by competitive examination — preference being given to honorably discharged soldiers and sailors of the Civil War.[1] This constitutional provision has been carried into effect by the civil service law, the execution of which is placed in the hands of the State civil service commission.[2] The civil service of the State is divided into two classes: (1) the "unclassified" service, including elective offices, offices filled by the legislature, or by the governor's appointment, and certain other high appointive offices; and (2) the "classified" service, which comprises the great body of minor offices and positions filled by appointment. To this latter class of offices a person may be appointed only after having passed a satisfactory examination; and when once appointed, a person may be removed only "for cause," that is, for a good and sufficient reason. This mode of appointment generally insures more

tutions — which have been added from time to time, with little regard to the systematic and efficient organization of the executive department; so that it may be said that the administrative work of the State is performed through a cumbersome piece of machinery hardly consistent with the requirements of a great and progressive State. The variety of officers and boards having charge of administrative work may be seen by referring to Appendix D, § 97 of this volume.

[1] *Constitution of New York*, Art. V. § 9. [2] *General Laws*, ch. 3.

satisfactory service in the administrative work of the government than has before been possible.

36. The Judicial Branch

The State judiciary.

The judicial branch of the government consists of those officers whose duty it is to settle disputes arising under the law, and to protect the legal rights of citizens and of the community from infringement. These officers are called judges or justices. They are, with few exceptions, elected by the people, and usually hold their positions for a longer time than is the case with the executive officers. Their duties are generally performed while sitting in court. The court may consist of a single judge or a number of judges. For our present convenience we may consider the courts of the State as divided into two groups: (1) the general courts, whose jurisdiction extends throughout the entire State; and (2) the local courts, whose jurisdiction is limited to special localities. Passing over the latter class, until we come to consider the local governments with which they are related, we may here take a brief survey of the general courts of the State. These comprise the court for the trial of impeachments, the court of appeals, the supreme court, and the court of claims.

Court for the trial of impeachments.

The court for the trial of impeachments is specially organized for the trial of public officers against whom a bill of impeachment has been brought by the assembly. It is composed of the president of the senate, the senators, or a majority of them, and the judges of the court of appeals, or a majority of them. A conviction requires a two-thirds vote of the mem-

bers of the court; and the judgment of the court may extend no farther than to removal from office, and to disqualification from holding any office of trust under the State. The person so convicted, however, may also be tried and convicted in other courts, according to the ordinary processes of law.

Court of appeals.

The court of appeals is the highest appellate court of the State, that is, the highest court to which appeals involving questions of State law can be brought from the lower courts. It is composed of one chief judge and six associate judges, elected by the voters of the whole State for the term of fourteen years. It holds its sessions at Albany. Five members constitute a quorum, and the concurrence of four is necessary for a decision. Its jurisdiction is limited to a review of questions of law — except in criminal cases involving life and death, when questions of fact may also be reviewed.

Supreme court.

The supreme court is in some respects the most important court in the State. It has both original and appellate jurisdiction, in civil and criminal cases, without any limit to the judgment which may be involved. It is composed of seventy-six judges elected by the people for the term of fourteen years. For the organization of this court, the State is divided into four "judicial departments," and eight "judicial districts."[1] There are twenty justices elected in the first district; twelve in the second district; six in each of the third, fourth, and sixth districts; seven in each of the fifth and seventh districts; and ten in the eighth district. Although elected by the voters of their respective districts, the jurisdiction of each

[1] See Appendix C, § 96.

justice extends to every part of the State. For the proper exercise of its judicial functions, the duties of the supreme court are separated into those performed by the appellate division, and those performed at the special and trial terms.

Appellate division.

There is an appellate division corresponding to each of the four great judicial departments. The justices for each department are selected and appointed by the governor from the whole body of justices elected to the supreme court. There are seven appellate justices appointed for the first department, who sit at New York City; and four for each of the second, third, and fourth departments, who sit respectively at Brooklyn, Albany, and Rochester. No justice may hold his position in the appellate division for more than five years. In each department four justices constitute a quorum, and a concurrence of three is necessary for a decision. The chief duty of the appellate division is to review questions brought to it on appeal from the lower courts, or from the special and trial terms of the supreme court.

Special and trial terms.

The remaining functions of the supreme court are exercised at the special and trial terms. These are held in each county of the State; and at each term the judicial duties are performed by a single justice. At the special term the judge hears and decides equity cases, and special motions or questions of law, not requiring the aid of a jury, At the trial term, civil and criminal cases, which usually involve questions of fact, are tried with the aid of a jury. The jury, however, may be dispensed with in civil cases, on the request of both the litigant parties.

Court of claims.

The court of claims is a special court to hear and determine private claims against the State. A State may not be sued by a private citizen without its own consent; but by establishing such a special court, New York permits its own citizens to bring a suit against itself, so that their claims may be justly settled. The court consists of three judges, appointed by the governor, with the consent of the Senate, for the term of six years. It holds four sessions each year in the city of Albany, at which the attorney general represents the interests of the State.[1]

[1] Notaries public and commissioners of deeds may be noticed as officers who have important legal functions. They take affidavits, administer oaths, and acknowledge the execution of legal papers, such as deeds, mortgages, etc.

CHAPTER VII

THE LOCAL GOVERNMENTS OF THE STATE

37. REFERENCES

Wilson, *The State*, §§ 1209–1259, "Local Government"; *Johns Hopkins University Studies*, Series I., "Local Institutions"; Howard, *Local Constitutional History of the United States;* Bryce, *American Commonwealth*, ch. 48, "Local Government," ch. 49, "Rural Local Government," ch. 50, "Government of Cities," ch. 51, "Working of City Governments"; Fiske, *American Political Ideas*, I., "Town-Meeting"; and *Civil Government in the United States*, ch. 2, "The Township," ch. 3, "The County," ch. 5, "The City"; Woolsey, *Political Science*, Part III. ch. 10, "Institutions, Local and Self Government"; Wilcox, *Study of City Government;* Goodnow, *Municipal Problems*, and *Municipal Home Rule;* Conkling, *City Government in the United States;* Jameson, "Municipal Government in New York" (in *Magazine of American History*, VIII. 609).

Constitution of New York, Art. X., "County Officers," Art. XII., "Cities and Incorporated Villages," Art. VI. § 14, "County Courts," § 15, "Surrogates' Courts," § 17, "Justices of the Peace"; *General Laws of New York*, ch. 17, "The General Municipal Law," ch. 18, "The County Law," ch. 20, "The Town Law," ch. 23, "The Village Law," ch. 22, "The General City Law"; *Laws of New York, 1897*, ch. 378, Charter of New York City; also *1901*, ch. 406, Revised Charter of New York City; *Laws of New York, 1898*, ch. 182, "An Act for the Government of Cities of the Second Class"; *New York Code of Civil Procedure*, ch. 3, "Jurisdiction and Organization," ch. 18, "Surrogates' Courts," ch. 19, "Justices' Courts."

38. THE COUNTY GOVERNMENT

Importance of local divisions.

We have already seen that the organization of the State government requires for certain purposes the

formation of local districts. For example, the organization of the legislature is based upon the division of the State into senate districts and assembly districts, which are in turn based upon the counties. Also, the organization of the State judiciary requires the formation of judicial departments and judicial districts. But it will be seen that local divisions are useful for other purposes. The government requires not only general officers to look after general interests, but local officers to look after local interests. The administration of the laws throughout the entire State requires the presence of officers in every part of the territory. Moreover, the special interests of each locality can best be ascertained and provided for by those who are most closely related to the locality itself. For these reasons the territorial divisions of the State form a very important factor in the government. Briefly stated, they furnish a basis for the organization of the central government; they are useful as administrative districts, whereby the laws of the State can be carried into execution; and more than all else, they serve as areas of local self-government, where the people of a single locality can, to a certain extent, govern themselves.

Growth of the county system.

When looked at from all these points of view, the most important local division of the State is probably the county. Our present county system is the result of gradual growth. It was at first modelled after the English county, or shire, which had itself come down from the Anglo-Saxon period, and more remotely from the tribal organization of the ancient Germans.[1]

[1] Fiske, *Civil Government*, 48–54; Howard, *Local Constitutional History of the United States*, I. ch. 6.

The first counties, established by the assembly of 1683, were intended to furnish a basis for representation, and to be used as judicial districts in place of the previous "ridings." The only officers which they had were the officers of the county courts, appointed by the governor. But the counties soon came to be something more than mere representative and judicial districts. When it became necessary to build courthouses and jails to aid in the administration of justice, and to do other important things, it came to be customary to call together the town supervisors to apportion the necessary taxes among the several towns of the county. In this way the town supervisors came to be regarded as a county board. Upon this board the State gradually bestowed more and more powers; new offices were created, until the county has finally come to be a municipal corporation "for the purpose of exercising the powers, and discharging the duties of local government, and the administration of public affairs conferred upon it by the law."[1]

[1] *General Laws of New York*, ch. 18, § 2. The growth of the New York county can be clearly traced in the Session Laws of the State. The laws of 1774 and 1775 contain a number of special acts authorizing the supervisors in the counties of Albany, Orange, Tryon, and Ulster, to erect courthouses and jails. The first general act relating to counties was passed in 1778, entitled "An Act for defraying the public and necessary charges in the respective counties of the State" (*Laws, 1778*, ch. 65), providing for an annual meeting of the supervisors of the county to examine all accounts charged against the county, and to apportion the assessments among the several towns. This law also authorized the board in each county to appoint a clerk and a county treasurer. Later, the supervisors were compelled, under a penalty of $250, to raise the money necessary for the erection of public buildings, and for other county purposes, when such was directed to be raised by

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The county legislature.

The legislative power of the county is vested in the board of supervisors, which is composed of one supervisor from each town and city ward in the county, elected every two years. As the supervisors are elected by the people of the towns and wards, and as each one is also an officer of the town or ward in which he is elected, the interests of these minor divisions are fully represented in the county board. The powers exercised by the board are granted by the State legislature; and hence it can do nothing which it is not specially authorized to do by the State law. Without attempting to enumerate these powers in detail, they relate in general to the care of the

an act of the legislature (*Laws, 1807*, ch. 14). Upon the county board other powers were gradually conferred; for example, to pay the fees of district attorneys (*Laws, 1818*, ch. 283); to certify to the accounts of loan officers (*Laws, 1819*, ch. 36); to award a specified bounty for the destruction of wolves (*Laws, 1822*, ch. 26); to raise the amount of any balance due the State for taxes (*Laws, 1822*, ch. 27); to raise a specified sum for the encouragement of agriculture (*Laws, 1822*, ch. 236). From 1829 to 1838 there were about three hundred and fifty acts of special legislation conferring specified powers upon the different county boards of the State (see *Laws* of these years, Index, "County"). From 1838 began a series of general acts enlarging the authority of county boards throughout the State, including the power to change the boundaries of towns and erect new ones; to purchase real estate, and erect buildings for the care of the poor; to borrow and loan money; to make laws for the destruction of wild beasts, and noxious weeds, etc. (see *Laws, 1838*, ch. 314; *1849*, ch. 194; *1858*, ch. 190; *1875*, chs. 251, 482; *1879*, chs. 275, 534; *1880*, ch. 336; *1882*, chs. 60, 250, 317; *1883*, ch. 403; *1884*, ch. 141; *1885*, ch. 439; *1886*, chs. 335, 340). By this succession of laws, the county board, composed of the supervisors of the several towns, was gradually developed into a local governing body, with legislative and administrative functions. Finally, by the law of 1892 (ch. 686), the various existing laws relating to counties were compiled into a general law which defines the present county system of the State (see *General Laws*, ch. 8).

public property of the county; the raising of money, and paying the expenses necessary to carry on the county government; the destruction of wild animals and noxious weeds; the erection of towns and school districts within the county; and the construction of roads and bridges and erection of county buildings. The board is specially prohibited from authorizing the county or any town to make a debt exceeding one-tenth of the assessed valuation of the real estate in the county or town, unless by assent of the majority of the electors of the town or county; and in no case may a debt be incurred to exceed one-third of such assessed valuation.[1]

The county executive.

The executive officers of the county are elected by the voters of the county for the term of three years. They are: (1) The sheriff, whose duty it is to preserve the peace of the county, to execute the orders of the county court, to arrest criminals, and to have the charge of persons confined in the county jail; (2) the district attorney, who is the public prosecuting officer, and the legal adviser of other officers and of the grand jury, and who represents the county in all suits brought by or against it; (3) the county treasurer, who has the custody of all the moneys belonging to the county, keeping an account of all receipts and expenditures, and filing an annual report with the county clerk, and with the State comptroller; (4) the county clerk, who has charge of all books and records, deeds, mortgages, and other documents which are required by law to be deposited in his office; (5) the coroners, who investigate the causes

[1] *Constitution of New York*, Art. VIII. § 10; *General Laws of New York*, ch. 18, §§ 12, 13.

of sudden death, and who may also be authorized to perform the duties of the sheriff in the absence or disability of that officer; (6) the superintendent of the poor, who has charge of the almshouse and the indigent poor of the county; and (7) the school commissioner, who has charge of the schools of the county.

The county judiciary.

The judicial authority within the county is exercised by the county judge and the surrogate. These officers are elected by the voters of the county for the period of six years; their jurisdiction is limited to the county in which they are elected. The judicial system of the county regularly comprises the county court, the surrogate's court, and the grand jury. (1) The county court is presided over by the county judge. It has both civil and criminal and both original and appellate jurisdiction. It may try all civil cases to recover an amount not exceeding $2000; and it must try all criminal cases arising in the county except murder, which is tried by the supreme court of the State. In New York county, the duties elsewhere performed by the county court are divided between the city court, which exercises civil jurisdiction, and the court of general sessions, which exercises criminal jurisdiction. (2) The surrogate's court has jurisdiction over the estates of deceased persons; it probates wills, grants letters of administration, appoints guardians, and examines the accounts of executors, administrators, and guardians. In the smaller counties, which have no separate surrogate, these duties are performed by the county judge. (3) The grand jury is properly a part of the judicial system of the county. It consists of a body of from twelve to

twenty-three men, drawn from a list of three hundred prepared by the board of supervisors. Its duty is to make a preliminary inquiry into the more serious crimes committed within the county; and the votes of twelve men are necessary to hold a person for trial before the court. Its examination is held in secret, and the right to such a preliminary inquiry is one of the rights guaranteed by the State constitution to every person charged with a serious crime.

The county as an administrative district.

Besides being to a certain extent a self-governing community, the county is also an administrative district of the State. It aids in carrying into execution the laws of the State, so far as they apply to the county. For example, the board of supervisors acts as a board of canvassers in a general State election. It also apportions within the county the money raised by the State for the support of education. And strictly speaking, the district attorney represents the State in prosecuting crime within the county, for a criminal act is considered not as a crime against the locality, but as a crime against the people of the State.

39. The Town Government

The growth of towns.

The county is made up of a number of towns, or "townships," each of which, like the county, is a body politic, having legislative, executive, and judicial powers. The town in its earliest form was brought to this country by the European colonists, and it can even be traced back to the customs of the ancient Germans.[1]

[1] There has been much interesting discussion in recent years, mingled with considerable speculation, regarding the origin of the American township. While the present town system in this country is

From the earliest times to the present the town has been, for the most part, a self-governing community. The earliest towns of New York were incorporated by the colonial government, and were professedly patterned after the Dutch towns in Holland; but their powers of self-government were very limited. Under the influence of the New England immigrants, and by the establishment of the English authority, a greater freedom was given to the town. The town came to elect its own officers and to exercise such authority as was delegated to it by the central government. The town has now come to be a political

largely the product of American legislation, it no doubt has its roots in the early Germanic institutions. The Germans, like all early peoples, were gathered into groups or clans; and when they ceased from their nomadic life, each clan became a local settlement, hemmed in by a belt of outlying land, called a "mark," or by a stockaded wall, called a "tun" — which name came to be applied to the settlement itself. The people governed themselves in a town-meeting, the "tun-gemote," and elected their own head man, the "tun-reeve." This simple democratic community grew into the town system of Holland and of England. In the latter country it became transformed into the "parish" and the "manor." The town of New England was a reversion to the primitive Germanic type, although considerably modified by local legislation. The town in New York was at first a poor copy of the town in Holland, and afterward improved under the influence of New England ideas. The "overseers" of the New York town, which took the place of the "selectmen" of the New England town, developed into distinct officers, with their own particular functions. Through these changes the town has preserved its original and general democratic character; but in the process of development it has acquired special features, so that the American township of to-day has a character distinctively its own. (On this general subject, see Adams, "Germanic Origin of New England Towns," in *Johns Hopkins University Studies*, I.; Fiske, *American Political Ideas*, "The Town-Meeting"; and *Civil Government*, pp. 34–43, "Origin of the Township"; Howard, *Local Constitutional History of the United States*, I. chs. 1, 3.)

corporation, with certain legislative, executive, and judicial powers.

The law-making power of the town is vested in the whole body of voters assembled in the town-meeting. The town-meeting is thus, like its German prototype, a pure, and not a representative democracy. It assembles regularly, every two years, on the first Monday in February, unless another time is fixed by the board of supervisors.[1] The State law confers upon the "biennial meeting" the power to fix the number of constables (not exceeding five); to direct all suits in which the town is interested; to provide for the destruction of noxious weeds and animals, and to establish pounds; to abate public nuisances which affect the health of the community; to care for the town lands and other town property; and to determine all other questions lawfully submitted to it. Special town-meetings may be called upon the request of twenty-five voters for the purpose of raising money for special purposes; or upon the application of the supervisor, or other town officers, to settle questions pertaining to the special duties of these officers.[2]

The town legislature.

The executive officers of the town are elected by the voters of the town at the biennial town-meeting,

The town executive.

[1] The law specifically provides that the board of supervisors may by resolution fix the time of the biennial town-meeting on some day between the first of February and the first of May, or on the first Tuesday after the first Monday of November, known as "General Election day." The law also provides that the regular time of biennial meetings in counties of more than 300,000 and less than 600,000 inhabitants shall be the second Tuesday of March, unless otherwise directed by the board of supervisors (*General Laws*, ch. 20, § 10).

[2] *General Laws of New York*, ch. 20, § 22.

and hold their office for two years. The officers are: (1) the supervisor, who receives and pays out all money raised for town purposes (except what is raised for the highways and for the support of the poor), keeping an account of receipts and expenditures, and who also must attend the county board of supervisors; (2) the town clerk, who has charge of all books, records, and documents belonging to the town, and who also acts as secretary of the meetings of the town; (3) the highway commissioners, from one to three in number, who receive and expend the money raised by the town to build and keep in repair the roads and bridges; (4) the overseers of the poor, one or two in number, who receive and disburse the money raised by the town for the support of the indigent poor; (5) the constables, not more than five in number, whose duties are to preserve the peace of the town, and to serve the orders of the justice's court; (6) the assessors, three in number, who apportion the taxes levied upon the town, according to the assessed valuation of each person's property; (7) the collector, who collects the taxes levied upon each person; and (8) the inspectors of election, four in number, who preside at town elections, receiving the ballots and canvassing the votes. The "town board" consists of the supervisors, the town clerk, and the justices of the peace (or any two of them); it is required to audit the accounts of all town officers who receive town money or office fees. The officers who are paid by fees are the town clerks, the constables, and the justices of the peace.

The town judiciary.

The judicial authority within the town is exercised by the justices of the peace. These officers, usually

four in number, are elected for four years, two being elected alternately every two years. The justice's court is a purely local court, confined to cases arising within the town. Its jurisdiction is both civil and criminal, but limited in civil suits to cases not involving more than $200, and in criminal cases to the lighter offences.[1]

The town as an administrative district.

The town may be regarded as an administrative district of the county, because the taxes which are raised by the county are apportioned among the various towns, and are locally assessed and collected by town officers. It also performs administrative duties for the State, since the State laws relating to education are carried out by local officers within the town. Also, in general elections of the State, the town inspectors make the returns, through the county board, to the State board of canvassers. The town is, therefore, a local district which furnishes the basis of the county government in the board of supervisors; it is also an area of local self-government in which the people elect their own officers and make certain regulations of their own; and it is finally a kind of administrative district of the county and of the whole State.

40. The Village Government

The growth of villages.

The village government is of later origin than that of the town or county. In the colonial times, under the Dutch and the English, there was no village government, as distinguished from the town government. The first settlements and hamlets were incorporated as towns, with the governmental forms we have

[1] *Code of Civil Procedure*, ch. 19.

already described. The town governments extended over the neighboring lands attached to the hamlets. Later the town, or township, acquired a well-defined area with fixed boundaries. The town government thus extended over the thickly settled as well as the thinly settled areas. It was only when the thickly settled districts within the townships were found to have special needs that special authority was given to them, and then only for certain specified purposes — generally, at first, for the extinguishing of fires. It was ten years after the first constitution of the State was adopted that the first act of this kind was passed (1787), and more than twenty years (1798) before the first village was properly incorporated as a body politic, distinct from the town, and with power to manage its own affairs.[1] At first each village was

[1] The growth of village government in the State of New York furnishes an interesting topic in municipal history. The first act granting special privileges to a part of a town, or township, was passed in 1787, entitled "An Act for the better extinguishing of fires in the town of Brooklyn." By this act the inhabitants of the thickly-settled district near the river were allowed to select eight men to have charge of the fire-engine, and to be called "firemen," whose duty was to put out fires (*Laws of New York, 1777–1800*, vol. II. ch. 40). The local authority was extended in 1797 by "An Act for the prevention of fires," in the same district, authorizing the people of this part of the Town of Brooklyn to select from three to five freeholders to make regulations for the prevention of fires, with power to impose penalties not exceeding five dollars, which sums might be used for lighting the streets. In 1797 similar power to provide for the extinguishing of fires was given to Jamaica and Catskill, authorizing the people to select from three to five freeholders to be called "trustees of the fire company," with a clerk to keep a record of their rules. The first law for the incorporation of a village, in the proper sense, was passed in 1798, entitled "An Act to invest certain powers in the freeholders and inhabitants of the villages of Troy and Lansingburgh." The occasion of this act is indicated in the preamble, which declares that the inhabitants of the vil-

incorporated by a special act of the legislature. At present villages are incorporated by a general law of the State.

Incorporation of villages.

The general law of the State provides that "a territory not exceeding one square mile, or an entire town, containing in either case a population of not less than two hundred, and not including a part of a city or village, may be incorporated as a village."[1] The general steps to be taken for this purpose are: (1) an application signed by twenty-five freeholders of the territory, and presented to the supervisor of the town in which the territory is situated, or, if the the territory is situated in two or more towns, to the supervisor of each of such towns; (2) a vote by the qualified voters of the territory upon the question of incorporation. Upon the favorable decision of the supervisor — or supervisors, if the territory is situated in more than one town — and upon a favorable majority given at the election, the territory becomes an incorporated village. It may then proceed to elect its own officers, and to exercise

lage had previously complained to the legislature that the existing laws of the town were too "uncertain and restricted" for their special needs. Each village was by this act declared to be a "body politic and corporate," with power to elect five "trustees" who could make by-laws and rules relating to public markets, the putting out of fires, the lighting of streets, and "anything whatsoever that may concern the police and good government" of said village. Besides trustees, the village was empowered to elect three assessors, one treasurer, one collector, and as many fire wardens as the trustees may direct. This was the birth of village government in New York State. By a later act of the same year, 1798, the village of Utica was incorporated, and in 1799 Poughkeepsie (see *Laws of New York, 1777–1800*, index of the towns mentioned).

[1] *General Laws of New York*, ch. 22, § 2.

the powers granted by the State law. The village by being incorporated does not cease to be a part of the town; it simply acquires additional powers for its own special purposes.

The village legislature.

The power to make ordinances for the control of the village affairs is vested in a board of trustees, composed of the president and a number of trustees, varying in number from two to eight. This board possesses the power to pass a great variety of ordinances affecting the interests of the village, including: the general management of the village finances; the regulation of the public market, of the streets, sidewalks, drains, water supply, public lighting; the protection of the public safety, by abating nuisances, controlling railroad crossings, and the storage of explosives; together with the power to impose penalties not exceeding $100 for offences against the village ordinances. The board has also the power to audit all accounts and claims against the village.[1]

The village executive.

The chief executive officer of the village is the president, who is the head of the police force, and is authorized to see that the village ordinances are carried into execution. The treasurer is the chief fiscal officer of the village, who receives and pays out the village moneys, and keeps an account of all receipts and expenditures. The village clerk has custody of the books and records of the village, and acts as secretary of the board of trustees, and of the village board. Besides these general officers, the law provides for a number of special administrative officers and boards, — a street commissioner, a board of health, of fire commissioners, of water commissioners, of light

[1] *General Laws of New York*, ch. 21, § 88.

commissioners, of sewer commissioners, of cemetery commissioners, — whose respective duties are indicated by their names. These boards must file annual reports with the village clerk.

The village judiciary.

The judicial authority within the village is exercised by the village police justice. He is elected by the voters of the village for the term of four years. He may try cases which involve violations of the city ordinances, and hold a court of special session to try charges of misdemeanor committed within the village. He has also a civil jurisdiction similar to that of the justice of the peace of the town to recover damages payable to the village.[1]

The village as an administrative district.

The village has not the importance as an administrative district that belongs to the county or town. Its board of health, however, carries out the general health laws of the State; and the police justice, in trying cases of misdemeanor, administers the State criminal law.

41. The City Government

The growth of cities.

The city is, generally speaking, an outgrowth of the village. It is true that a few cities of the State — New York, Albany, and Hudson — were incorporated before the first incorporation of villages; but the great majority of cities have grown up as the result of the increase of the population in villages. The special needs of the larger and more concentrated population require the granting of additional powers. The government of the cities in New York State was originally modelled after that of the English borough; but it has become modified by later legisla-

[1] *General Laws of New York*, ch. 21, Art. VI.

tion, so as to have a character distinctly its own.[1] The tendency of the people to gather together in thickly settled districts is a marked feature of recent times. There were only two incorporated cities in the State at the close of the seventeenth century — New York (incorporated 1683) and Albany (1686). Only two more were added during the eighteenth century — Hudson (1785) and Schenectady (1798). During the first half of the nineteenth century only six more were added — Troy (1816), Buffalo (1832), Utica (1832), Brooklyn (1834), Rochester (1834), and Syracuse (1847). But at the close of the nineteenth century this number had increased to forty. This rapid growth of the city population has greatly increased the difficulties attending city government, which may still be regarded as in the experimental stage.

Organization of cities.

The cities of the State are now grouped into three classes: (1) those which contain more than 250,000 inhabitants — which include New York and Buffalo; (2) those which contain from 50,000 to 250,000 — which include Rochester, Albany, Syracuse, and Troy; and (3) those which contain less than 50,000 — which include the rest of the cities of the State. Cities are incorporated under the provisions of a charter granted by the legislature. The attempt has been made to organize the cities of the second class under a single charter, and thus to substitute general for special legislation in the control of these cities.[2] But the

[1] For a discussion of the growth of the English borough and city, and their transference to this country, see Fiske, *Civil Government*, ch. 5, "The City."

[2] See Appendix D, § 100.

organization of cities is generally effected by special acts of the legislature, which fact results in giving a great diversity to the details of municipal government. There are, however, certain general features which are common to them all. The constitution of the State places limits upon the amount of indebtedness which may be incurred.[1] There are also general laws which relate to the management of certain municipal affairs. There are, moreover, certain common features which are usually observed in the form of government, as shown in the structure of the legislative, executive, and judicial branches.

The city legislature.

The power to make city ordinances is vested in a representative body called the common council, or board of aldermen. Its members may be chosen by all the voters of the city on a general ticket; or, as is usually the case, each member may be chosen by the voters of a separate ward. The powers of the common council are specified in the charter of incorporation, and include the power to manage the city property, to incur debts, and to pass rules and regulations necessary for the peace and good government of the city.

The city executive.

The chief executive officer of the city is the mayor, who is elected by the voters of the city, generally for a term of two years. His duty is to see that the ordinances of the common council are enforced. He is the head of the police force, and is responsible for the peace and good order of the city. By his veto power he has also a share in making the city laws. There are other executive officers, which may be either elected by the voters of the city, or appointed

[1] *Constitution of New York*, Art. VIII. § 10.

by the mayor, or by the mayor and common council. These usually comprise the city treasurer, city clerk, city attorney, assessors, tax-collectors, auditor, — whose duties are sufficiently indicated by their titles. Many of the administrative duties of the city are often reposed in the hands of departments, boards, or commissions, such as the executive board, the board of education, the board of health, the police department, the fire department, the street commission, the park commission, the civil service commission, the duties of each being specified in the charter.

The city judiciary.

The judicial duties of the city are performed by local courts, corresponding somewhat in their civil jurisdiction to the justices' courts in towns, and in their criminal jurisdiction to the police courts in villages. There are generally two distinct courts for the trial of civil and of criminal cases. The civil court is called by various names, as the justice's court, the city court, the municipal court, the recorder's court, or the mayor's court. The criminal court is usually called the police court. Their jurisdiction is restricted to minor causes, and an appeal lies from them to the county court, and to the supreme court.

The city as an administrative district.

The city, like the village, may be regarded in a certain sense as an administrative district of the State. Although it does not form a basis for representation in the legislature, it serves the State through its board of education and its board of health, because these bodies assist in carrying out the general educational and sanitary laws of the State. Its most distinctive function, however, is to serve as an area of local self-government wherein the people are permitted to manage their own municipal affairs.

42. Government of Greater New York

The most important city in the State, and indeed on the American continent, is the city of New York. Beginning as a small Dutch trading-post, it has extended in area and increased in population so that it now includes the territory of four counties, and has a population about three and one-half millions. With the growth of its varied interests, there has gone on a corresponding growth of its governmental system. It was originally incorporated as a Dutch town in 1653, with its schout, burgomasters, and schepens. At the time of the English conquest in 1664 these officers were displaced by a mayor, five aldermen, and a sheriff; and in 1683, under Governor Dongan, it was more completely organized as a city, receiving a new charter from the legislature. Its officers were then a mayor, a recorder or judge, a city clerk, appointed by the king or governor; also six aldermen, and six assistants, elected annually by the people, and forming the common council. This whole body of officers formed the city legislature, with power to enact by-laws; and, excluding the assistants, it also formed the city court. In 1777, with the formation of the first State constitution, the officers hitherto appointed by the governor were appointed by the State "council of appointment" (see p. 43). But after the constitution of 1821 was adopted, the mayor was elected by the common council, the city clerk by the people, and the recorder only was appointed by the State governor. By the amendment of 1834 the election of mayor was placed in the hands of the people. In order to curb the excessive expen-

The growth of New York City.

diture of money the State legislature in 1857 assumed control of some parts of the city's business. But the experiment of governing the city by the State legislature was far from satisfactory; and in 1897 a new charter was granted which practically created a new municipal organization, with large powers of local self-government.[1] This charter was revised in 1901.

Local divisions of New York City.

The new City of New York, or Greater New York as it is popularly called, covers an area of three hundred square miles. It includes the four counties of New York, Queens,[2] Kings, and Richmond. It contains a population of about three and a half millions, or nearly one-half of the inhabitants of the entire State. It furnishes twenty of the fifty members of the State Senate, and sixty of the one hundred and fifty members of the State Assembly. On account of its great extent and population, it is divided for administrative purposes into five "boroughs": (1) the Borough of The Bronx extending from Westchester County on the north to the Harlem River and the East River on the south; (2) the Borough of Manhattan, extending from the Harlem River south to the New York Bay, and including the islands within the bay; (3) the Borough of Brooklyn, covering the county of Kings; (4) the Borough of Queens, covering the county of Queens; and (5) the Borough of Richmond, covering the county of Richmond, or Staten Island. Besides this division into boroughs,

[1] For the original charter, see *Laws of New York, 1897*, ch. 378; for the revised charter, see *Laws, 1901*, ch. 406.

[2] With the organization of the new city the original county of Queens was divided, and the part remaining outside the city was erected into a new county, under the name of Nassau.


WESTCHESTER CO.
City Line
Long Island Sound
BRONX
Harlem River
Hudson or North River
MANHATTAN
East River
Roosevelt Island
City
Newtown
Flushing
QUEENS
City Line
Jamaica
New Lots
BROOKLYN
New Utrecht
Flatbush
Flatlands
NEW YORK BAY
Gravesend
CONEY ISLAND
Castleton
Northfield
Middletown
Southfield
Westfield
RICHMOND
GREATER NEW YORK

the city is also divided into seventy-three districts, which furnish the basis of representation in the city legislature. Moreover, the senate districts, and the assembly districts—from which the State senators and assemblymen are elected—are used for certain purposes in the organization of the city government. Finally, the city is subdivided into a large number of wards. Upon this territorial arrangement are based the various branches of the municipal government and administration.[1]

Legislature of New York City.

The legislative power of the city is vested in a representative body called the board of aldermen. This board is elected for two years. Its members comprise (1) the president of the board, elected by the city at large; (2) the presidents of the five boroughs, each elected by his own borough; and (3) the aldermen, seventy-three in number, one elected from each of the aldermanic districts into which the city is divided. The heads of the various administrative departments are entitled to sit in the board and to debate, but not to vote. Every legislative act must receive the vote of at least a majority of all the members; and some special acts, involving the expenditure of money, require a four-fifths vote. The charter confers upon the board of aldermen a large number of special powers, intended as far as possible to provide for the vast and complicated interests of a great municipality.

The executive of New York City.

The chief executive officer of Greater New York is the mayor, who is elected by the voters of the entire city for a term of two years. He is largely

[1] For maps showing these various divisions of the city, see **Fielde**, *New York Political Primer.*

responsible for the good government of the city, and for this reason he has extensive powers. He is in fact, as well as in name, the head of the executive branch of the city government, since he appoints, and may remove, the heads of nearly all the departments of administration — the comptroller being the only other executive officer elected by the entire city. The mayor has also a large influence in legislation. Every ordinance of the municipal assembly must be submitted to him for his approval. If he vetoes the ordinance, it can pass only by a two-thirds vote of all the members; or, in case of an ordinance involving a tax, or the expenditure of money, or the granting of a franchise, by a three-fourths vote of the members.

Administrative departments.

The greater part of the administrative work done in the city is divided among a number of administrative departments. These are placed under the control of commissions, who are appointed by the mayor and who hold their office until their successors are appointed — unless otherwise provided in the charter. The departments cover all the special branches of municipal administration — finance, law, police, public improvements, parks, buildings, public charities, correction, fire, docks and ferries, taxes and assessments, education, and public health.[1]

The borough organization.

The five boroughs of the city have each a local organization by which they aid in carrying on the local improvements of the city. Each borough has a president, elected by the voters of the borough for a term of two years. Each borough is also divided into "local improvement districts," corresponding in

[1] For the organization of these departments, see Appendix D, § 98.

general to the State senate districts. Each of these districts has a "local improvement board," consisting of the president of the borough and the aldermen who reside in the district. This board can make improvements within the district, subject to the approval of the city board of estimates.

The judiciary of New York City.

The judiciary of Greater New York (excluding, of course, the supreme court, and the county courts, which sit within its limits)[1] consists of the municipal court, and the court of special sessions, which are the lowest courts in which the citizen is brought into relation to the law. (1) The municipal court is the lowest court of civil jurisdiction, trying cases which involve a judgment of not more than $500. For the distribution of its duties the whole city is divided into twenty-three "municipal court districts," each one of which elects a justice of the municipal court, who holds court in the district, and has a term of ten years. There are, in the Borough of Bronx, two such districts, in Manhattan eleven, in Brooklyn five, in Queens three, and in Richmond two. (2) The court of special sessions is the lowest court of criminal jurisdiction, trying cases of misdemeanor arising in the city, except those of libel. For the purposes of this court the city is divided into two parts, the first division including the boroughs of Bronx and Manhattan, and the second the boroughs of Brooklyn, Queens, and Richmond. In the first division are twelve justices, and in the second eleven, all of whom are appointed by the mayor for a term of ten years. This court, wherever it may sit, must

[1] For the name of the county courts of New York county, see p. 102.

be held by three justices, and two must concur to render a decision; and all trials are held without the aid of a jury. Appeals may be taken from this court to the court of general sessions, which corresponds, as we have seen, to the county court.

PART THIRD

THE WORK OF THE GOVERNMENT

CHAPTER VIII

THE ADMINISTRATION OF JUSTICE

43. References

Willoughby, *Nature of the State*, ch. 12, "The Aims of the State"; Woolsey, *Political Science*, I. Part 2, ch. 4, "Sphere and Ends of the State," II. Part 3, ch. 11, "Subject-matter of Law and Administration"; Wilson, *The State*, ch. 15, "Functions of Government," ch. 16, "Objects of Government"; Ford, *American Citizen's Manual*, Part II. ch. 3, "Functions of State Governments"; Bluntschli, *Theory of the State*, Eng. trans., Book V., "The End of the State"; Holmes, *The Common Law;* Munroe Smith, "State Statute and Common Law" (in *Political Science Quarterly*, II. 105; III. 136); Robinson, *Elementary Law;* Pomeroy, *Municipal Law;* Kent, *Commentaries on American Law;* Schouler, *On Domestic Relations;* Washburn, *On Real Property;* Redfield, *On Wills;* Parsons, *On Contracts.*

General Laws of New York, ch. 48, "The Domestic Relations Law," ch. 49, "The Lien Law," ch. 50, "The Negotiable Instruments Law," ch. 51, "The Partnership Law"; *New York Code of Civil Procedure; New York Code of Criminal Procedure.*

44. The Functions of Government

The government a means to an end.

To obtain a comprehensive view of the political system under which we live, it is necessary to consider something more than the mere structure or framework of the government. The government,

as we have thus far considered it, may be regarded as hardly more than a well-devised piece of political machinery, made up of various parts, and so arranged as to run with as little friction as possible. Unless we understand the kind of work which is actually done by the government, we will have a very inadequate idea of its real nature. The government is not an end in itself, but a means to carry out the sovereign will of the State. It is a pernicious view of government to consider it as existing for its own sake, or for the benefit of the officers who are intrusted with its duties. The people of the State have established the government and have elected their official agents for the purpose of promoting the welfare of the people, and of protecting the common interest of the whole community. If a government does not accomplish this, it is worse than useless. But so far as it does accomplish this end, it is one of the most important and essential factors of human society.

Protection of rights.

There are various ends which the State seeks to attain by means of the government which cannot be attained without it. One of these ends is the protection of individual rights. If every one were permitted in all cases to protect his own rights, society would relapse into a condition of private warfare. The redress of injuries would be inspired by personal revenge. The weak would become the prey of the strong; might would be the standard of right, and justice would be nothing but a name. The security of the rights of persons and of property is largely dependent upon the wise efforts of the government.

Protection of the community.

Another of these ends is the protection of the community from the common dangers to which it is exposed — from foreign invasion, from internal disorders, from epidemic diseases, from public immorality. These dangers cannot be fully met by individual efforts, but only by the combined efforts of an organized society. The safety of the people is secured in an effective way only through the government.

Promotion of common interests.

Moreover, the common interests of society can best be promoted through the agency of the government, especially when these interests are of such an extensive character as to be beyond the scope of individual effort. As individual interests can best be promoted by individual efforts, and as the interests of a few persons can best be promoted by their combined efforts, so those public interests which are common to all the members of the State can best be promoted by the combined efforts of the people — which efforts are expressed in governmental action. For example, the control of education, the care of the poor and the insane, the regulation of industry and commerce, the raising of money by taxation — so far as these matters affect the common welfare — are phases of the public welfare which can be best promoted by the judicious exercise of governmental authority.

45. The Protection of Rights

Legal rights of the citizen.

One of the most important functions of the State government is the administration of justice, or the protection of private rights. It is true that men might be said to have rights if there were no government. But their rights would then be insecure, and

incapable of protection, except by private force. In maintaining their own rights, men would encroach upon the rights of others. To secure their own liberty, they would invade the liberty of others. Justice can be maintained only by restraining the liberty of each one in order to protect the rights of all. Justice, indeed, is based upon the equality of rights; and this can be secured only by the recognition of a common authority. The rights of the subject then became legalized. They are protected by the government, that is, by the rational will and organized force of the whole community. Every citizen, therefore, by becoming a member of the State and by giving his allegiance to the government, has guaranteed to him the protection of his rights.

The common law.

In an organized society like our own State, justice is administered and rights are protected only through the law. In other words, the laws which are established by the government are the only means whereby justice may be adequately secured. It is the law which defines what every man's rights are, and which lays down the methods by which they may be defended. In this State the law relating to rights and the mode of their protection rests to a great extent upon what is called the "common law." This is that portion of the English law which was in force in the American colonies before the Revolution, and which has not been annulled or superseded by any later law. The principles of the English common law have been adopted as the law of the State, so far as they are consistent with republican ideas.[1]

[1] *Constitution of New York*, Art. I. § 16.

The State statute law.

But the common law may be superseded or supplemented by "statute law," that is, the enactments of the legislature. As the population of the State has increased and the interests of the people have multiplied, new laws have become necessary to protect these interests. The principles of the common law have not been entirely adequate to adjust all the conflicting interests of a growing State. Hence, the rights of the citizen find another security in the statutes enacted from time to time by the legislature.

Judicial decisions.

A law enacted by the legislature is intended to apply to a general class of cases. The interpretation of the law as applied to specific cases is the work of the courts. By judicial interpretation, the law thus becomes adjusted to a great variety of special cases, differing from each other in many particulars. The final expression, therefore, of what the law really means must be found in the decisions of the courts. The most important of these are the decisions of the supreme court and the court of appeals.

46. Rights Pertaining to Persons

The right of life.

To illustrate the way in which justice is administered by the government, we may mention in the first place certain rights pertaining to persons, which are defined and protected by the law. The most fundamental of these is the right of life. Life is the most sacred possession of the citizen; and the law protects every man's right to live, against every unjust encroachment, either on the part of the government itself or of any private individual. No one may be deprived of his life by the State unless he has for-

feited it by a criminal act of his own and even in that case only by a due process of law. The law also protects the life of the citizen against the attack of another person: 1 by making such an attack a crime subject to criminal prosecution; 2 by placing a person under bonds who threatens the life of another; (3) by giving to the relatives a civil action to recover compensation for the death of a person when caused by culpable negligence on the part of another; (4) by giving to a person whose life is assailed the right to protect himself, even by taking the life of his assailant if necessary.

Right of personal liberty.

The law also secures to every one the right of personal liberty, that is, the right to act without restraint, to do as he pleases, so far as he does not interfere with the rights of other persons. To place one under restraint against his will is a criminal act severely punished by the law. Against such an unlawful interference with his liberty one may use all necessary force; and any obligation extorted from one while under restraint has no legal force.

Right of bodily security.

A person's body is also protected from injury. This is true whether the injury is done with an evil intent, or through the culpable negligence of another person. In the one case, the injury is a crime, which is punished by the State; in the other case, it is a private wrong, which entitles the injured person to a compensation for the injury sustained.

Right of reputation.

Every person has, moreover, the right to his reputation or his good name. The law secures one in this right by regarding a violation of it either as a crime, or a private wrong, or both. To slander a person by spoken words, or to libel him by published statements,

is a grievous offence for which the law grants to the injured person an adequate remedy.

Right of domestic relations.

There are also certain rights growing out of domestic relations which the law secures to members of the family. By the marriage relation the husband has the right to obedience and service on the part of the wife; and the wife has the right to protection and support on the part of the husband. Similar rights exist between parent and child; and to a certain extent in the quasi-domestic relations between guardian and ward and between master and servant. Any injury which is done to the members of the family is an injury done to the head of the family, for which the latter can obtain a legal redress.

47. Rights Pertaining to Property

The law of property.

The work which the government performs for the benefit of the citizen is still further seen in the protection which it gives to the rights of property. Under the term property is included all those things which can be appropriated and used for one's benefit. By the right of property is meant the right freely to use and dispose of those things which one has justly acquired. In order to secure this right to all alike, the law defines, first, the different kinds of property which one may own; next, the various kinds of rights which one may have in property; and finally, the modes in which one may acquire property so as to have a just title to it.

Real and personal property.

By the common law property is divided into real and personal. Real property is that which is regarded as immovable and permanent in its nature, such as

land and buildings, and whatever is fixed to the land or buildings. Personal property, or chattels, is that which is considered as movable or transient in its nature, such as furniture, money, and whatever else can be carried with the person. It is evident that the same thing may under some circumstances be regarded as real property, and under others as personal property. For example, a tree while growing upon the land is real property, but when it is cut down it becomes personal property. And similarly the materials intended for building are personal property, but when worked into a house are real property.

Estates in land.

The various kinds of rights which one may have in real property are called "estates." A man, for example, may have the absolute control of a piece of land, subject to the control of no one but himself; in this case he is said to have an absolute estate or an "estate in fee simple." Or he may have only a partial control over it, as when he rents a piece of land of another, having only the right to use it and to reap the fruits; in this case he is said to have a qualified estate. Such qualified estates may extend for life, or for a period of years, or they may, if so understood, be subject to the will of the owner. A mortgage is a kind of qualified estate since by it one has the right to sell the property of another as a security for debt.

Title to property.

In order to protect the rights of property, the law determines the modes in which property may be acquired so as to give a good title. Property may be acquired in the first instance by "occupation," that is, by taking possession of a thing which does not belong to any one else, as in taking fish from the

sea. It may also be acquired by a conveyance from one person to another, as the result of a gift or a sale. It may, moreover, be acquired by "prescription," that is, the holding of a piece of property in undisputed possession for a certain number of years.

Title by inheritance.

One of the important ways in which property is acquired is by inheritance, that is, when it is transferred on the death of one person to other persons. Such a transfer may be made in one of two ways. (1) By a last will and testament, the property is distributed according to the desires of the deceased, and the persons to whom such property is bequeathed have a title which is recognized and protected by the law. The terms of the will are carried out by those who are designated in the will as "executors." (2) In case no will has been made, the law points out those persons who are considered as having the best right to the estate. The provisions of the law are carried into effect by those who are appointed by the court as "administrators." In either case, the rights of property are secured only by the protection which is afforded by the laws of the State.

48. Rights Pertaining to Contracts

Nature of contracts.

Justice is administered by the government not only by protecting the rights of person and property, but also in enforcing the just claims which one person has against another. By far the greatest part of the business of daily life consists in transactions based upon mutual promises. When the failure to perform a promise results in an injury, the law gives some means of redress. Those agreements which the law enforces are called "contracts." A contract creates

a right on the part of one person and a corresponding duty on the part of the other. When a contract has been legally made, the law protects the rights of one person by enforcing the duty imposed on the other, or by compelling that other to make a compensation for the injury done by not fulfilling the promise.

Some persons cannot make contracts

All persons are permitted to make contracts unless they are for certain reasons disqualified by law. Minors are disqualified because they are under the power of another. Idiots, lunatics and intoxicated persons are disqualified because they are not regarded as responsible for their acts. It is to protect such persons and not to injure them that they are prevented from making legal promises. Sane persons of mature age are supposed to enter into mutual agreements for their mutual benefit; and the promises which they make to each other give birth to claims, or rights, enforcible by the law.

Consent and consideration

The law is careful to prevent any injustice being done in the formation of contracts. An agreement, for example, to be a legal contract must be made with the full understanding and consent of both parties. They must have the same understanding of the terms of the agreement, and must agree to the same terms. There must also be what the law calls a "consideration," or some adequate reason upon which the agreement is based. This may be some material thing given, like money, some service rendered, some sacrifice made, or some goodwill bestowed. But no contract is binding which involves the doing of what is impossible, illegal, or contrary to good morals.

Force and fraud.

Again, in order to secure justice in the making of contracts, the law protects persons from the exercise of force and fraud. If an agreement is extorted from a person by the exercise of force, or such an intimidation as amounts to force, such an agreement is not binding. If a person, moreover, is drawn into an agreement as the result of wilful deception, or of an evident intention to defraud him of his just rights, such an agreement can be made void by the courts.

Subject of contracts.

The subject-matter of a contract is the thing agreed to be done or not to be done. It is impossible to enumerate all the things which may be made the subject of a legal contract. They belong to every form of business and to nearly all the phases of our daily life. All forms of industry and commerce are carried on, in great part, by means of contracts. Buying and selling, letting and hiring, the employment of agents, the forming of partnerships, the giving of promissory notes, the obtaining of insurance, the making of loans, are some of the ways in which contracts are employed. The protection of the rights growing out of such contracts shows how the law, established and enforced by the government, is an efficient agent in the administration of justice.

49. Private Wrongs and Civil Procedure

Nature of private wrongs.

We see that the definition of rights is an important element in the administration of justice, but it is by no means the only element. It is necessary that the law should provide some means by which rights can be protected, in case they are invaded or infringed

upon. T[illegible] law gran[illegible] son who commits [illegible] to a judgment [illegible] not only define [illegible] their various classes. [illegible] against a private person, [illegible] of the community [illegible] wrong." T[illegible] be *wrongful* in itself [illegible] and it must be [illegible] some appreciable damage. [illegible] person have been invaded by such a wrongful act, the law gives him the right to bring a "civil action," or suit in court, for satisfaction for the injury done. While the details of civil action are sometimes complex, it is easy for every one to understand its general nature and purpose.

The parties to a civil action are the "plaintiff" and the "defendant." The plaintiff is the one who claims to have sustained the injury and who brings the action; the defendant is the one who is charged with having committed the injury. There may be two or more plaintiffs, in case the rights of such persons have been invaded; and there may be two or more defendants, if the injury has been caused by their joint action. If an injury has been done to a minor, a guardian may be appointed to appear in court in his behalf. If an injury has been done to the estate of a deceased person, the action may be brought by the executors or administrators. In this way the law seeks to secure justice in every case in which an injury has been done.

Pleadings and joining of issue.

The purpose of a civil action is to settle in a judicial way the points at issue between the plaintiff and the defendant. To this end the law provides the method in which the issues, or points in dispute, can be clearly set forth. The steps in this procedure are together called the "pleadings," which must be expressed in writing. The first step is the "complaint," which contains a clear statement on the part of the plaintiff of the facts in the case, and a demand for judgment. To this complaint the defendant may make a "demurrer," which is an objection based upon a question of law; or he may make an "answer," which is either a denial of the facts already stated, or a statement of new facts constituting a defence, or counter-claim. If a counter-claim is made by the defendant, the plaintiff on his part may then make a "demurrer" as to a question of law, or make a "reply" as to a matter of fact, similar in substance to the defendant's answer. By this process of affirming and denying, the issues of the case are finally joined; and upon the issues presented in the pleadings, the case is tried in the court.

Trial with or without a jury.

The trial of the case takes place before a judge, and generally before a jury. The jury consists of twelve men summoned to hear the evidence, and to pronounce a verdict according to the facts presented. The law seeks to obtain a jury satisfactory to both parties by allowing objections, or "challenges," to be made to any person drawn as juryman. Such objections may or may not be approved by the judge. The facts upon which the verdict of the jury is based are ascertained by such evidence as is, in the opinion of the judge, "material" and "relevant" to the case.

After the evidence has been taken, the attorneys of the plaintiff and the defendant argue their respective claims before the jury; the judge instructs or "charges" the jury upon the law in the case, and the significant points in the evidence; and the jury after deliberation renders a verdict for the plaintiff or for the defendant. In case the jury does not agree, a new trial may be ordered. With the consent of both parties the jury may be dispensed with, in which case the dispute is settled by the judge alone.

Judgment and execution.

The verdict of the jury is generally followed by the final judgment of the court, which constitutes the judicial decision of the case, and terminates the action. If no appeal is taken from this judgment to a higher court, the judgment, if against the defendant, is enforced by a process called "execution." An execution is an order of the court directing the sheriff, or other proper officer, to see that the judgment is satisfied. It may in certain cases be issued against the *person* of the defendant, ordering him to be arrested and detained in jail until legally discharged. But the execution is generally issued against the *property* of the defendant, ordering so much of it to be seized and sold as will satisfy the judgment, and thus compensate the plaintiff for the injury sustained. To prevent palpable injustice in an execution against property, certain necessaries of life are exempted from seizure. By the general mode of civil procedure which has been described, the law seeks to protect a person against any private wrong which may be committed against him.

50. Public Wrongs and Criminal Procedure

Nature of public wrongs.

A wrong may be of such a nature as to affect injuriously not only an individual, but the interests of the whole community. Such an encroachment upon the rights of the community is called a "public wrong," or a crime. In this case the State makes the cause its own, and prosecutes the wrong-doer. To constitute a crime, there must be a criminal *act*, that is, an act forbidden by the law; and a criminal *intent*, that is, a conscious purpose to do the forbidden act. Irresponsible persons, like idiots, insane persons, and children under seven years of age, are not supposed to be capable of forming a criminal intent, and are hence exempted from the penalties of the law. But the fact of intoxication does not relieve a person from criminal responsibility. The various kinds of criminal acts are classed by the law as "felonies" and "misdemeanors." A felony is defined by the penal code of the State to be a crime which is or may be punishable by either death or imprisonment in a State prison. A misdemeanor is any other crime, the punishment of which is either a fine or a short imprisonment. By committing either a felony or a misdemeanor, a person becomes liable to a "criminal action."

Parties to a criminal action.

The parties to a criminal action are the State on the one hand, who prosecutes the action, and the defendant on the other hand, who is charged with the crime. The State is represented by a public officer, the prosecuting attorney, whose duty it is to see that all criminals are brought to justice. The defendant may be either the "principal," who has

actually committed, or who has aided in committing the criminal act; or, in case of felonies, the "accessory," that is, a person who either has beforehand counselled or influenced another to commit a crime, or has attempted to prevent the punishment of a crime after it has been committed, as, for instance, by assisting the criminal to escape from justice. Both the principal and the accessory are liable to punishment.

Arrest with or without a warrant.

The first step in bringing to justice a person who is believed to have committed a crime is the "arrest." This consists in an officer's (or in some cases a private person's) taking the accused into custody. It is usually accompanied by a "warrant," or a written order issued by a magistrate directing an officer to take the offender into custody. An arrest may be made by an officer without a warrant when a felony, or any crime in violation of the public peace, is being committed in his presence; or when a felony has been actually committed, and he has good cause for believing that the person arrested is the felon. An arrest may also be made by a general alarm, called a "hue and cry," raised in pursuit of a criminal, and all persons called upon are bound to assist in making the arrest without the aid of a warrant. If a criminal flees into another State, he is arrested on a "requisition" made by the governor to the authorities of the State into which he has fled.

Commitment and bail.

When a person is arrested he is, as soon as possible, brought before a magistrate. If the crime is a minor offence and the magistrate has jurisdiction in the case, the prisoner may be tried immediately. Otherwise he is examined, and upon this examination

he is either discharged or held for trial. If he is held for trial, he may be "committed" to jail to await the action of the proper court; or he may be released "on bail," that is, upon a security given by responsible persons that he will appear for trial at the proper time. In case he does not appear, the security or pledge is forfeited to the State; but the prisoner is still liable to a subsequent arrest. When a person is committed to jail and there is any reason to believe that the commitment is illegal, he is entitled to the "writ of *habeas corpus*," which is an order of the court, commanding him to be brought before the magistrate, that the question may be judicially decided whether he is or is not justly held.

Information and indictment.

The prosecution of the prisoner and his trial before the court are based upon a written accusation drawn up either by the prosecuting attorney or by the grand jury. In the former case, it is called an "information"; in the latter case, an "indictment." The more serious crimes are tried upon an indictment prepared by the grand jury. This insures to the accused a preliminary and secret examination before he is held for trial in an open court. In any case, the accusation must be a statement of the facts which constitute the crime, a description of the person accused, the date of the criminal act, and a description of the person or property injured. Upon the truth of the charges contained in this written accusation depends the result of the trial.

Arraignment and trial.

When brought before the court for trial, the accused person is first "arraigned," that is, the accusation is read to him, and he is compelled to make a "plea" of guilty or not guilty. If he plead guilty, he is in

most cases sentenced without a trial. But in the case of murder the plea of guilty is not accepted, and the accused is given the privilege of a fair trial, whether he desires it or not. In every trial the accused is presumed to be innocent until he is proved to be guilty. He is entitled to the aid of an attorney, whom the court appoints, if he is not able or refuses to employ one himself. He is also entitled to be tried by a jury, which is drawn in a way similar to that employed in a civil action. In a criminal trial the State must prove by proper evidence and beyond a reasonable doubt every material allegation made in the indictment. Following the evidence, the arguments of the counsel and the charge of the judge to the jury are made, as in a civil trial; and the jury after careful deliberation brings in the verdict of guilty or not guilty. If the jury cannot agree a new trial is ordered.

After the verdict has been given against him, the accused has still an opportunity to make a "motion for a new trial," or a "motion in arrest of judgment," if he believes there has been any illegality in the procedure or in the verdict. If these motions are denied or not made, "judgment" is pronounced by the court, which is the sentence given by the judge directing the kind of penalty to be inflicted upon the accused. But even now the accused may appeal to a higher court on a "writ of error" which alleges illegality in the trial which affects the judgment. The judgment is carried into effect by the sheriff or an order made by the court to the proper officer to inflict upon the guilty person the penalty of the law.

Justice in procedure.

There are other details of procedure which are laid down for the benefit of the accused, such as "change of venue," or the transference of the trial from one locality to another, if it is otherwise impossible to secure a fair verdict. But the statements already made are sufficient to show the great care taken to protect the rights of the accused as well as the rights of the community, and thus to secure impartiality and justice. The advantage which a powerful State naturally has in prosecuting one of its own subjects is the reason for throwing about an accused person all the safeguards necessary to prevent an innocent person from being condemned. A full knowledge of the law of procedure cannot be given in a brief review, and must be left to the professional lawyer. But its general spirit is a matter of interest to all, since it shows the important part which the State performs in the administration of justice, and thus in the protection of the rights of its citizens.

CHAPTER IX

THE PROTECTION OF THE COMMUNITY

51. References

Cooley, *Constitutional Limitations*, ch. 16, "Police Power of the States"; Lalor, *Cyclopædia of Political Science*, "Police," "Police Power of a State"; Johnson, *Cyclopædia*, "Police Power"; Woolsey, *Political Science*, I. 235–240, "Police Power," also "Nature and Sphere of the Police Power" (in *Journal of the American Social Science Association*, 1871); Prentice, *Police Powers;* Tiedeman, *State and Federal Control of Persons and Property;* Parker and Worthington, *Law of Health and Safety;* Sykes, *Public Health Problems* (in Contemporary Science Series).

Constitution of New York, Art. XI., "Militia"; *General Laws of New York*, ch. 16, "The Military Code," ch. 25, "The Public Health Law"; *Laws of New York, 1898*, ch. 182, "Act for the Government of Cities of the Second Class," Art. VI., "Department of Public Safety"; *Charter of New York City*, ch. 8, "Police Department," ch. 15, "Fire Department," ch. 19, "Department of Health"; *New York Penal Code*, Title 10, "Crimes against Persons and against Public Decency and Good Morals," Title 12, "Crimes against the Public Health and Safety," Title 13, "Crimes against the Public Peace"; *Reports* of the State Board of Health, and of the Adjutant-General.

52. The Police Power of the State

Nature of the police power.

Another important work which the government performs for the benefit of the people is the protection of the community from the common dangers to which it is exposed. When we consider the many ways in which the public safety is endangered — dangers arising from riots, from fires, from conta-

gious diseases, etc. — we can see that such dangers cannot be fully met by individual efforts. It therefore becomes necessary for the government not only to protect the rights of individuals, but also to protect the well-being of the whole community. The government protects individual rights, as we have seen, by giving to the injured person some kind of redress, or by punishing the wrong-doer by some kind of penalty. It protects the community, on the other hand, by precautionary measures which are intended to lessen or prevent the evils which threaten the public safety. This power to restrain individual liberty for the purpose of protecting the whole community is called the "police power" of the State.

Scope of the police power.

The variety of subjects over which this power may be exercised is so great that it would be impossible to enumerate them all. It may be said, in general, that whatever threatens the safety, health, and morals of the community may be included within its sphere — that is, whatever endangers the public peace, threatens the lives and property of the public, exposes the health of the people, or offends the moral sense of the community. All these matters may be made the subject of police regulation; and laws may be made to keep them under proper control, even at the expense of personal and property rights.[1]

[1] In Lawton *v.* Steele, the court says: "The extent and limits of what is known as the police power have been a fruitful subject of discussion in the appellate courts of nearly every State. It is universally conceded to include everything essential to public safety, health, and morals, and to justify the destruction or abatement, by summary proceedings, of whatever may be regarded as a public nuisance. Under this power it has been held that the State may order the destruction of a house falling to decay, or otherwise endangering the lives of

Its exercise by the State.

Nearly all the laws which are made for police protection are made by the State legislature or by the local authorities of the State to which this power has been delegated by the legislature. This is regarded as essentially a State power, so that the Federal Government scarcely ever exercises it, except in the matter of quarantine; and scarcely ever interferes with its exercise by the State, except when it encroaches upon rights guaranteed by the Federal Constitution. We can here see the benefit which the people derive from the care exercised by the State to protect its citizens, of whatever rank or condition, from dangers which could not be well avoided by their own unaided efforts.

The "police force."

The execution of the police laws of the State and of local police ordinances is, to a great extent, placed in the hands of the "police force" of the different cities and villages. This force consists of a body of men organized under the local authorities, and empowered to carry out the police regulations.

passers-by; the demolition of such as may be in the path of a conflagration; the slaughter of diseased cattle; the destruction of diseased or unwholesome food; the prohibition of wooden buildings in cities; the regulation of railways and other means of public conveyance, and of interments in burial grounds; the restriction of objectionable trades to certain localities; the compulsory vaccination of children; the confinement of the insane or those afflicted with contagious diseases; the restraint of vagrants, beggars, and habitual drunkards; the suppression of obscene literature and of houses of ill-fame, and the prohibition of gambling houses and places where intoxicating liquors are sold. Beyond this the State, however, may interfere whenever the public interests demand it; and in this particular a large discretion is necessarily vested in the legislature to determine not only what the interests of the public require, but what measures are necessary for the protection of such interests." (152 U. S. 133 — quoted in Tiedeman's *State and Federal Control of Persons and Property*, edition 1900, I. p. 5.)

They are, in an important sense, the protectors of the public peace, of the lives and property of citizens, and of the health and the morals of the community. While there is in this State no State constabulary, every police officer is, in a certain sense, an administrative officer of the State. Although the police department is a part of the local government, its general duties are defined by the State law, and in the case of cities are usually indicated in the charter.[1]

53. Protection of the Public Peace

Suppression of riots.

The community is protected, in the first place, by police laws which are intended to preserve the public peace and the general good order of society.[2] One of the ways in which the public peace may be disturbed is by riots. A riot is defined to be an assembly of three or more persons who disturb the public peace by doing an unlawful act, or by threatening to do an unlawful act by force or by violence. Persons who encourage a riot are themselves regarded as rioters, and amenable to the law. The law also forbids persons to remain at a place of riot after having been warned away by a public officer.

[1] The ordinary "policeman," in addition to his strict duties as a police officer, that is, as an administrator of the police laws, has the duties of an officer of the court in making arrests upon a warrant. As a police officer he may carry into execution the police regulations of the State without a warrant; but as an officer of the court he may make an arrest, after a crime has been committed, only upon a warrant. An enumeration of the specific duties which properly belong to a police officer, as such, is clearly given in the charter of the city of New York, §§ 315–318.

[2] See *New York Penal Code*, Title 13, "Crimes against the Public Peace."

Unlawful assemblies.

The public peace may also be disturbed by an unlawful assembly. An assembly is unlawful if it consists of three or more persons who attempt or threaten any act tending toward a breach of the peace, or any act which is itself unlawful; and every person is forbidden to participate in such an assembly. This law is not intended to abridge the liberty of speech, but to protect the community from any body of persons who threaten its safety.

Disturbing lawful meetings.

The disturbance of any meeting or assembly, not itself unlawful in character, is regarded as a disturbance of the public peace, and is forbidden by the law. The people have a right to meet together for any lawful purpose, and they are legally protected in this privilege.

Use of fire-arms.

The people have also a right not to be disturbed by the discharge of fire-arms, and the law prohibits such a disturbance. It goes still further, and forbids a person intentionally to point or aim a fire-arm toward any other person, even though it be done without malice and with no intention to injure any one. It also prohibits the carrying of concealed weapons with the intent to use them — except by a written permit of the police magistrate.

54. Protection of Life and Property

Dangers to life and property.

The protection of the community is still further insured by laws intended to prevent or to lessen the dangers that threaten the lives and property of citizens in general. In the previous chapter we saw how the government seeks to protect the rights of life and property of each person by punishing the wrong-doer after the injury has been committed. But in its po-

lice regulations the government seeks to prevent injuries to life and property before such injuries occur, that is, by precautionary measures which will render life and property more safe to every one.

Prevention of fires.

Some of the earliest regulations of this kind were made to prevent the loss of property by fires, through the organization of fire departments. In fact, the first steps in the growth of village government grew out of the necessity of special laws to prevent fires in thickly settled districts (see p. 108, note). The fire department has a certain police authority, for example, in limiting the height of buildings and in determining the materials of which they may be constructed; and it has the right even to destroy private property, if necessary to prevent the spread of a conflagration.[1]

Explosive substances.

The danger arising from the manufacture and storage of gunpowder and other explosive substances is such as to require strict precautionary measures. Laws and ordinances are therefore made defining the limits within which such explosives cannot be manufactured, and forbidding the placing of such explosives where they will endanger the life or property of citizens.[2]

Control of streets.

There are also certain police regulations regarding streets, which are intended to secure the safety of the public. Fast driving or wheeling is forbidden in the streets. Dangerous animals are not allowed to run at large. Property owners are obliged to keep their sidewalks in such a condition as to be safe for pedestrians.

[1] See charters of various cities; also *General Laws of New York*, ch. 21, Village Law, Art. VII., "Fire Department."

[2] *New York Penal Code*, § 389.

Railroads are also subject to special restrictions in order to insure the public safety. Proper signals and other precautions, such as signboards and flagmen, must be employed at road and street crossings. The road must be fenced in to prevent the destruction of horses and cattle. The rate of speed is limited in running cars through a village or city. Strict regulations are made regarding the construction of roads and cars — as to the weight of rails, the use of couplers and brakes, the mode of heating passenger cars, etc. — all of which are intended to protect the public.[1] Regulation of railroads.

Not only are the railroad officials obliged to submit to such regulations for the public safety, but all other persons are prohibited from malicious acts in connection with the railroads, which might endanger the safety of the people. To remove a rail, to displace a switch, to put an obstruction upon the track, to tear down a sign of warning, to throw a stone or other missile at a train, to interfere with the telegraph wires — are acts forbidden by the law. There are, moreover, many other acts which come under the head of "malicious mischief" that do not relate to railways — such as injuring a public highway or bridge, a landmark, any telegraph or telephone line, a gas pipe or sewer pipe, or machine or tool belonging to another — injuring or removing a work of art, a monument or a gravestone — injuring or defacing a book, map, chart, engraving or other object of literature or art belonging to a public library, gallery, or museum — injuring or defacing a house of worship or any part of it — all of which acts, and many more Malicious mischief.

[1] *New York Penal Code*, §§ 416–426.

of like character, are forbidden by the law in order to make the property of every citizen more secure.[1]

55. Protection of the Public Health

Health laws.

The government also insures the safety of the community by laws intended to protect the public health.[2] The purpose of these laws is not to promote the health of each individual — a matter in which the individual himself is directly concerned — but to protect the whole community from the spread of disease, and from those general conditions which endanger the health of all, and which cannot be avoided by mere individual efforts.

State department of health.

The public health is regarded as essential to the well-being of society, so that the health laws are administered under the most efficient system. There is, in the first place, a State department of health, placed under a commissioner who is appointed by the governor.[3] He has general control over all the interests which affect the health of the people of the State. In his department is a bureau of statistics for the registration of births, marriages, deaths, and prevalent diseases throughout the State. There are, in the next place, local departments of health, organized in the several cities, towns, and villages of the State, each assisted by a health officer, who must be a competent physician. Such boards make a record of all vital statistics under the supervision of the State department of health. They make sanitary

[1] *New York Penal Code*, ch. 14, "Malicious Mischief and other Injuries to Property."

[2] *General Laws of New York*, ch. 25, "The Public Health Law."

[3] *Laws of New York, 1901*, ch. 29.

regulations for the burial of the dead, and also such other rules as they think proper for the protection of the general health of the community.

Contagious and infectious diseases.

Every local board of health is obliged to guard against the introduction of contagious and infectious diseases. The law requires that all persons infected with such diseases shall be isolated in suitable places, where they can be properly treated without danger to other persons. There are special provisions for quarantine at the port of New York. The regulations necessary to prevent the introduction of disease into the port are under the supervision of the health officer of the Port of New York; and the property required to maintain the quarantine, such as a sanitary hospital, etc., is placed under the charge of three quarantine commissioners.

Public nuisances.

The health board of every locality has the authority to receive complaints regarding the existence of nuisances which are considered as detrimental to the health of the community. They can inspect the premises complained of, and if they think it necessary, can compel the suppression of the nuisance, at the expense of the owner of the property. It is the duty of the health boards, so far as they are able, to remove all conditions which are found to be detrimental to the health of the people.

Adulteration of food and drugs.

The public health may be put in jeopardy by the manufacture and sale of improper food and impure drugs. The general laws of the State provide that no person shall produce or sell any adulterated food or drug. The State department of health has the power to make provisions to enforce this general law. This may be done by appointing public chemists and

inspectors to examine any food or drug offered for sale in the State. The word "food" in the law means not only solid food, like meat, bread, confectionery, etc., but liquid food, or beverages, such as milk, wines, and liquors of all sorts.

Water supply and sewerage.

The State department of health also makes rules for the protection from contamination of all public supplies of water used for drinking purposes in the State. The sewer system of cities is generally under the control of the local authorities. But the State commissioner may compel every village or hamlet, whether incorporated or unincorporated, to maintain a proper system of sewerage, if it is deemed necessary for the health of the community.

Practice of medicine.

To prevent the dangers arising from the unskilful practice of medicine, the law provides that no person may practice medicine in the State unless he has passed a satisfactory examination and has received a license to practice. The license is issued by the board of regents. The examination is made upon questions prepared by three boards of examiners, representing the three principal medical societies of the State, namely, the regular Medical Society, the Homeopathic Medical Society, and the Eclectic Medical Society. By this means the State seeks to protect the people from so-called physicians, who are unworthy or incompetent to minister to the sick. Similar provisions apply also to dentists, and even to veterinary surgeons.

Pharmacy and the sale of drugs.

The community is still further protected from unskilfulness and carelessness in the preparation and sale of drugs. Every druggist, like every physician, must receive a proper license. The license, in this

case, is given by the State board of pharmacy, which consists of fifteen members appointed by various pharmaceutical societies in different parts of the State. This board may make the necessary rules to regulate the compounding of medicines, the sale of poisons, the fixing of the standard of drugs, and similar matters necessary for the protection of the public health.

Among the means adopted to prevent the spread of disease is the vaccination of school children. The law provides that no person not vaccinated shall be received into the public schools of the State; and this law may be enforced by the trustees or other officers having control of such schools. A competent physician may be appointed to ascertain how far this law has been carried into effect, and to vaccinate children when necessary. This law, like those previously mentioned, is intended to protect the general health of the community from dangers which cannot be so well provided for by the individual members of society.

Vaccination of school children.

56. Protection of Public Morals

One may think that if there is anything which is beyond the control of law it is the private act or conduct of an individual. And this is perfectly true, so far as the act concerns only the individual himself. For his private moral character every one is responsible to his own conscience and to the moral law. But when an act offends the general moral sense of the community, it is something more than a private act, for it affects the well-being of the public, and should be controlled in the interests and for the protection of

Public and private morality.

the public. Hence we must distinguish between private morality and public morality. The law does not profess to be able to make any person pure and upright. It seeks simply to control those acts which tend to lower the general moral tone of the community. It proceeds upon the theory that the moral health of the community should be protected as well as its physical health.[1]

Immoral literature.

It is evident that the general moral health of the community is endangered by the publication and sale of immoral literature. The government, therefore, tries to prevent the corrupting influence of such literature by forbidding its publication, sale, or circulation. By the term literature is here included not only books, but pamphlets, papers, writings, pictures, or whatever else appeals to the eye or to the mind.

Immoral amusements.

There are certain forms of amusement which are regarded as having a corrupting influence upon the community. The keeping of gambling apparatus, or any other device upon which money is wagered, is forbidden in certain places where it would be likely to exercise an unhealthful influence. Lotteries, or schemes for the distribution of property by chance, are declared to be unlawful. Racing and trials of speed for any bet or stake are generally prohibited. Public shows or exhibitions which have a corrupting tendency and persons engaged in immoral vocations also come under the ban of the law.[2]

Acts of cruelty.

Acts of cruelty are also regarded as offences against the moral sense of the community. A child is cruelly treated if abandoned or neglected by its

[1] *New York Penal Code*, Title 10, "Crimes against Good Morals."
[2] *Ibid.*, Title 10, chs. 8, 9.

parents, or by any person having it in charge. No person is allowed to admit a child to a place where liquors are sold, or to sell or furnish to it liquors of any kind, or to give to it tobacco in any form. Animals are also protected from such acts of cruelty as are shocking to the general moral sense.[1]

Sabbath-breaking.

While the law protects the religious liberty of every person, it also protects the general moral and religious sense of the public. It recognizes the general observance of the Sabbath by forbidding on that day those acts which are looked upon as "serious interruptions of the repose and religious liberty of the community." All labor is prohibited on Sunday, except works of necessity or charity which are defined to be, "whatever is needful during the day for the order, health, and comfort of the community." A person, however, who uniformly keeps another day as the Sabbath may labor on Sunday, provided he does not disturb other persons. All lawful religious worship and religious meetings are protected from interruption or disturbance. The law thus secures the religious liberty of every person and at the same time protects the religious freedom of the whole community.[2]

57. Military Protection

The militia and its purpose.

There may be times of great danger, as in the case of a riot, an insurrection, or an invasion, when the ordinary civil power is unable to preserve the peace of the community. To meet such extraordinary dangers the use of military force becomes necessary. The military power is, in fact, the last resource

[1] *New York Penal Code*, Title 16, "Cruelty to Animals."

[2] *Ibid.*, Title 10, ch. 1, "Crimes against Religious Liberty."

which the State can employ to execute the law and to protect the community; and it should be employed only when the civil power is evidently insufficient. The military force of the State is called the "militia." The State constitution provides that all able-bodied male citizens between the ages of eighteen and forty-five who are residents of the State shall constitute the militia. All such persons are liable to military service — except those who are specially exempt by the laws of the United States or the laws of the State.[1]

Active and reserve militia.

The militia of the State is divided into two parts, the active and the reserve militia. The active militia consists of the organized and uniformed forces known as the "national guard," and of the organized naval forces known as the "naval militia," which need not be uniformed. The reserve militia includes all other persons liable to military service.[2] The reserve militia is called upon only in times of unusual danger, when the active militia is insufficient to preserve order. As the reserve militia cannot be ready for immediate action, it is necessary that the active militia should be sufficiently large to meet any ordinary emergency.

The national guard.

The national guard is of course the chief military body which must be depended upon in case of a sudden public danger. The aggregate force of the national guard in time of peace is by law fixed at not less than ten thousand nor more than eighteen thousand enlisted men. But in time of war, insurrection, or invasion, this force may be increased as the exigencies of the service may require.[3] The national

[1] *Constitution of New York*, Art. XI. § 1.
[2] *General Laws of New York*, ch. 16, § 5.
[3] *Ibid.*, ch. 16, Art. II.

guard is organized into brigades, battalions, and regiments, under their appropriate officers, according to the rules of the United States Army, and must at all times be ready for active service.

The naval militia. The naval militia consists of not more than two thousand men in time of peace, although this number may be increased in time of war or insurrection. It is organized into battalions and divisions, and officered according to the rules of the United States Navy.[1]

Armories. For the purpose of preserving the arms, equipments, uniforms, and records of the organized militia, armories or arsenals are provided by the State. These are located at convenient places, under the control of the ranking officer of the organizations quartered in them. These armories may be used not only by the troops of the national guard and the naval militia, but by veteran organizations of detached soldiers and sailors, and also by educational institutions for purposes of military drill.[2]

The governor's military staff. The entire militia of the State is under the control of the governor, who has the power to call out the whole force or any part of it. As commander-in-chief of the militia, the governor is assisted by a military staff appointed by himself. The chief officer of the staff is the adjutant general, who has immediate charge of the organization and discipline of the State troops. Through him all orders of a military character are issued, and by his efforts the peace of the community, so far as it depends upon military protection, is made secure.

[1] *General Laws of New York*, ch. 16, Art. III.
[2] *Ibid.*, ch. 16, Art. IX.

CHAPTER X

THE SUPPORT OF PUBLIC EDUCATION

58. References

Boone, *Education in the United States;* Adams, *Contributions to the Educational History of the United States* (published by the United States Bureau of Education); Hough, *Constitutional Provisions in regard to Education in the Several States of the American Union* (United States Bureau of Education); Blackmar, *History of State and Federal Aid to Education;* Pratt, *Annals of Public Education in the State of New York, 1626–1746;* Hough, *Historical and Statistical Record of the University of the State of New York* (with "Introductory Sketch" by David Murray); Sherwood, *History of Higher Education in the State of New York* (United States Bureau of Education); University of the State of New York, *Academic Syllabus*, 1900; Randall, *History of the Common School System in the State of New York;* Draper, *Origin and Development of the New York Common School System;* Rice, *Public School System of the United States*, ch. 1, "Public School System in New York City," ch. 3, "Public Schools of Buffalo."

Constitution of New York, Art. XI., "Education"; *Laws of New York, 1892*, ch. 378, "The University Law," and *1894*, ch. 556, "The Consolidated School Law"; *Laws of New York, 1898*, ch. 182, "An Act for the Government of Cities of the Second Class," Art. VII., "Department of Public Instruction"; *Charter of New York City*, ch. 18, "Department of Education"; *Reports* of the Regents of the University, and of the State Superintendent of Public Instruction.

59. Growth of the Educational System

State control of education.

Another important function which the State performs for the benefit of the people is to encourage and promote the cause of general education. It is

true that the cause of education is promoted to a great extent by the private efforts and gifts of individuals. While the State does not discourage in any way these private efforts, it does not rely upon private generosity for the support of public education. It is also true that wealthy parents are able to provide ample means for the education of their own children. But the State proceeds upon the theory that the education of the poor is quite as important as the education of the rich. Moreover, the fact that the safety of our institutions depends in a large measure upon the intelligence of the people makes it necessary for the government to provide means for the education of the whole community.

The Dutch public schools.

The beginnings of our public school system may be traced back to the Dutch. Like the Puritans of New England, the Dutch of New York saw the need of providing some means of educating their children. The Dutch West India Company, in its charter of 1629, required the colonists to supply themselves as as soon as possible with a minister and a schoolmaster. The first schoolmaster arrived in New Amsterdam in 1633. Schools were soon established in Albany, Flatbush, and Brooklyn. These schools were intended for the common people, and were supported by the public.

Education under the English.

With the English conquest, the Dutch idea of common schools found less favor than the English idea of grammar and Latin schools. The Dutch schools were permitted to remain, but they received no public financial support. The English government authorized the establishment of a Latin school in New York City in 1687. The first legislative act in the

colony relating to education was passed in 1702, when £50 a year were appropriated for the support of a grammar school. In 1732 an act was passed to encourage a public school in New York City for teaching Latin, Greek, and mathematics. This was followed by several acts which authorized the raising of money by lottery (a common method of raising money in those times) for founding a college in New York City; and in 1754 King's College was established under a royal charter.

Creation of the board of regents.

The first important educational act of the State after the formation of the first constitution was that of 1784. By this act all the privileges hitherto belonging to King's College (now first called Columbia College) were vested in the "Regents of the University of the State of New York." This body was to have control of the higher education of the State, with the power to found schools and colleges, which schools and colleges were to form a part of the University. By a subsequent act of 1787, Columbia College was placed under its own board of trustees; and all other colleges were to be organized with the same corporate rights as Columbia. The regents of the university were authorized to incorporate new colleges and academies in the State and to have the right of visitation. Upon these two acts were founded the present organization of the board of regents and the present system of higher education.

Encouragement of common schools.

Provisions for the encouragement of common schools followed close upon those made for the promotion of higher education. In 1789 lands were set apart in the various townships for the support of such schools. In 1793 the regents suggested in

their report the importance of establishing common schools throughout the State for the instruction of children in the lower branches; and the legislature in the same year passed an act giving a yearly appropriation of $50,000 for five years for this purpose. This was followed by an act in 1805 setting apart the proceeds of five hundred thousand acres of public land for the benefit of the public schools.

Foundation of the common school system.

The real foundation of the present school system was laid in 1812. The legislature then made provisions for a permanent annual appropriation of $50,000. This was apportioned among the various towns; and each town was authorized to raise by taxation an additional amount equal to the apportioned share. The office of superintendent of common schools was also created. This office was held for about eight years (1814–1821) by Gideon Hawley, who has been called the "father of the common school system of New York State." Under his administration the schools were organized upon a systematic basis. The office of superintendent was afterward attached to that of secretary of state, where it remained for thirty-three years. In 1854 it became once more an independent office under the name of superintendent of public instruction, and has since been maintained as such. The fund for the support of common schools has been constantly increased since the early appropriations. At present the administration of the common school system is placed in the hands of the superintendent of public instruction, and is entirely distinct from the supervision of higher education, which is placed in the hands of the board of regents.

60. Higher Education of the State

University of the State of New York.

The supervision which the State exercises in relation to higher education is delegated to what is called the University of the State of New York. This is an organization established by law, including all the incorporated colleges of the State, together with the incorporated academies and the academic departments of the public schools. The University is a supervisory and administrative, and not a teaching institution. It is governed by the board of regents.[1] This board now consists of nineteen members elected by the State legislature, and four *ex officio* members, namely, the governor, the lieutenant governor, the secretary of state, and the superintendent of public instruction. The board has authority to incorporate new colleges and academies, and other institutions for the promotion of literature, science, or art. It has also power to visit and inspect all the colleges and academies in the State, and to require an annual report of such institutions regarding their financial condition, courses of study, and attendance. The board has, moreover, the power to confer degrees above that of master of arts. An important feature of their work is the discussion of educational topics at the annual convocation of the University, of which the regents and the officers of all colleges and academies are regarded as members.

Organization of colleges.

The organization of Columbia College furnished a model for the organization of other colleges and universities in the State. The college is recognized as

[1] *Laws of New York, 1892*, ch. 378, "The University Law."

a "body corporate" with power to receive proper and to manage trust funds given to it for education purposes. The governing authority is in the han of a council or board of trustees. The early cauti shown by the regents in granting charters led ma colleges to apply directly to the legislature for th charters of incorporation. But they are all ali made subject to the visitation of the regents. Und this organization and supervision the college and u versity work of the State is conducted. The Sta has furnished a certain amount of financial supp to college education; but this kind of education largely dependent upon philanthropic gifts and t tuition of students.

The regents also have a similar supervision ov the professional and technical schools of the Sta These include schools of law, medicine, pharma dentistry, veterinary practice, theology, pedagog music, and the useful arts. There are also many pr fessional departments connected with the universiti of the State. So far as financial support is concerne the State has been even less active in the support these schools than in the case of colleges.

The secondary schools of the State include aca emies, high schools, and the academic departments union schools. They are designed to prepare t students for the practical affairs of life, and to pr pare persons for admission to the first years of college course. Although related somewhat to t work of elementary education they are kept und the control and supervision of the regents. To other schools under the control of this body has t State given a greater amount of financial aid.

State Library and Museum.

Besides the higher schools of the State, the regents also have control of the State Library and the State Museum of Natural History. The New York State Library was established in 1818, and was declared to be founded "for the use of the government and the people of the State." Under efficient management it has grown to be in recent years an important educational agency. The State Museum grew out of the geological survey of the State, and was intended to be a collection of the specimens gathered by the geological survey. Besides the making of this collection there has been published in connection with the geological survey a number of valuable works on the natural history of the State. These two institutions — the State Library and the Museum — have been generously supported by State aid, and are maintained for the benefit of the whole community.

Other libraries and museums.

The State has also provided for the establishment under the supervision of the regents of free libraries and museums throughout the State. Any city, village, or town is empowered by law to levy taxes to maintain such a free library or museum, if approved by a majority vote at any election; and a certain amount of State aid is assured to such an institution.

61. Common Schools of the State

Superintendent of public instruction.

The greatest educational benefit which the people receive from the government is derived from the organization of the common school system. This provides for a free elementary education for every person between the ages of four and twenty-one. So important is this work that the State constitution

directs that "the legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of the State may be educated."[1] The supervision of the schools throughout the State is placed in the hands of the superintendent of public instruction.[2] He is elected for a term of three years by the joint action of the senate and assembly. He is the executive and judicial head of the common school system, and its success depends upon his wise and efficient administration. He has the authority to inspect all the schools of the State, and to appoint other persons to visit them and to report to him regarding their condition and management. He must report to the legislature each year, explaining the condition of the schools and recommending whatever plans he sees fit for their improvement. He also has the right to listen to appeals and decide questions and disputes arising in the application of the school laws.

School commissioners.

Below the State superintendent are the school commissioners. These officers have supervision over the schools within certain districts which are called the "school commissioners' districts," and are marked out by the supervisors of the county. The school commissioner is elected by the qualified voters of the district for a term of three years. He is responsible to the State superintendent for the condition of the schools within his district. He examines and passes upon the qualifications of those who apply for positions as teachers. He must inform himself, by per-

[1] *Constitution of New York*, Art. IX. § 1.

[2] *Laws of New York, 1894*, ch. 556, "The Consolidated School Law."

sonal visitation, of all matters relating to the management of the schools, and use his utmost influence, as the law says, "to promote sound education, elevate the character and qualifications of teachers, improve the means of instruction, and advance the interests of the schools under his supervision."[1]

School district.

The school commissioner's district is divided into school districts, which are the smallest units of the common school system. This division is made by the school commissioners, but each district has, for certain purposes, its own officers. These officers comprise, generally, three trustees, a clerk, a collector, and a treasurer, elected by the qualified voters of the district. The trustees are the custodians of the school property; they make out the tax list for every tax voted by the district for school purposes; they employ the teachers, and under the supervision of the school commissioner, provide the means necessary for carrying on the work of instruction.

Union free schools.

To increase the educational facilities in certain districts, the law provides for the establishment of a union free school, whereby the schools of a district or of adjoining districts may be united. The union free school takes the place of the district schools of the locality. It is placed under a local board of education, composed of from three to nine trustees. This board has charge of the school property; it has the power to make all needful rules for the management of the school, and if thought desirable, to establish an academic department.

Schools in cities.

The supervision of schools located in cities is provided for in the city charters. This supervision

[1] *Laws of New York, 1894*, ch. 556, § 13.

is generally exercised by a board of education elected by the qualified voters, and by a superintendent of schools appointed by the board. The city schools are not under the charge of the school commissioner; the ordinary duties of this officer are exercised by the city board of education, which is directly responsible to the State superintendent. In cities of the second class there are appointed five school inspectors to visit the schools and report upon their condition. In the city of New York there is also a board of examiners, which is required to pass upon the qualifications of those desiring to teach.

Normal schools.

For the purpose of giving persons a special preparation for the work of teaching, the State has provided various means. The most important of these is the foundation of normal schools. A normal school is established on the written request of certain local authorities, and upon the approval of a special State commission.[1] The school, when established, is placed under control of a local board of managers, appointed by the State superintendent of public instruction. This board has the power, with the approval of the State superintendent, to prescribe the course of instruction and to make all necessary rules for the management of the school.[2] Besides the normal

[1] This State commission consists of the governor, lieutenant governor, secretary of state, comptroller, State treasurer, attorney general, and superintendent of public instruction. The local authorities applying for a normal school may be the board of supervisors of any county, the corporate authority of any city or village, or the board of trustees of a college or academy. *Laws of New York, 1863*, ch. 466.

[2] There are at present (1902) twelve normal schools in the State, situated as follows: Albany, founded in 1844; Oswego, 1863; Brockport, 1867; Fredonia, 1868; Cortland, 1869; Potsdam, 1869;

schools, the State provides for the training of teachers by "teachers' classes" in academies, and by "teachers' institutes" under the direction of school commissioners.

Indian schools.

The State superintendent is charged with the duty of providing the means of education for all the Indian children of the State. He has the power to establish schools for this purpose and to appoint superintendents for such schools; and for the support of these schools the legislature makes an annual appropriation from the revenues of the common school fund.

The deaf and dumb, and blind.

All the institutions for the instruction of the deaf and dumb, and of the blind, incorporated under the laws of the State, whether supported by the government or not, are placed under the supervision of the State superintendent. He may visit these schools, and suggest to the director such improvements as he thinks expedient, and he must report to the legislature as to their general condition.

Compulsory education.

As some persons do not take advantage of the educational benefits which are offered to them, the State has seen fit to compel school attendance on the part of children between certain ages. The law provides that "every child between eight and sixteen years of age, in proper physical and mental condition to attend school, shall regularly attend upon instruction at a school in which at least the common school branches of reading, writing, arithmetic, English grammar, and geography are taught, or upon equivalent instruction by a competent teacher elsewhere

Buffalo, 1871; Geneseo, 1871; New Palz, 1886; Oneonta, 1889; Plattsburg, 1890; Jamaica, 1897.

than at school."[1] Parents or guardians are held responsible for the non-attendance of such children. It is also unlawful for a person, firm, or corporation to employ a child between the ages of eight and twelve while the schools are in session, or a child between the ages of twelve and fourteen without a written permit from the local superintendent of schools. This law also provides for the arrest of truant children and the establishment of truant schools.

62. Administration of the School System

Biennial school census.

We see that the State, by the constitution and the laws, has provided ample means for the education of all its citizens. It has also provided efficient methods for the administration of this system. First of all, there is required some accurate knowledge of the number of children for whom the law provides educational facilities, and the number of those who avail themselves of these facilities. The State superintendent is therefore authorized to take every two years a school census, which will give this information, and which will also show the extent to which the compulsory school law is enforced.

Sites for schoolhouses.

If any locality is not furnished with the school facilities which the law allows, and requires additional sites for schoolhouses, the law confers the authority necessary to acquire such sites. In case the owners will not consent to sell land for this purpose, the school authorities are clothed with the power to acquire the land without the consent of the

[1] *Laws of New York, 1894*, ch. 556, Art. XVI. § 3.

owner, on the condition of paying a fair compensation. In legal language, the property may be "condemned" for public use. This provision, however, is subject to limitations in the case of cities of more than thirty thousand inhabitants.

Licenses for teachers.

In order to obtain teachers who are qualified to give instruction in the common schools the law sets forth the mode in which their qualifications may be determined. No person is permitted to teach in the common schools who has not received a license of some kind. This may be a diploma granted by the State normal school; it may be a certificate given by the State superintendent; or it may be a certificate given by the school commissioner within whose district such teacher is employed. These certificates are given upon examinations, which are supposed to test the qualifications of the persons who apply for them.

Courses and text-books.

The course of study in the common schools and the adoption of text-books is, for the most part, in the hands of the local authorities. But the study of physiology and hygiene and the effects of alcoholic drinks and narcotics upon the human system is especially enjoined by the law. Besides the ordinary English branches, the local authority provides in certain schools free instruction in drawing, vocal music, and in industrial training, and may also maintain free kindergarten schools. Special provisions are made to prevent frequent changes in text-books, and the unnecessary expense to the people which such changes involve.

Miscellaneous provisions.

To cultivate the spirit of patriotism, the school authorities of every public school in the cities and school districts are required to purchase a United

States flag, and display it upon the school building during school hours, and are expected to provide appropriate exercises for the celebration of the birthdays of Washington and Lincoln. They are required to provide for such exercises upon "Arbor Day" (the Friday following the first day of May) as shall tend to encourage the planting, protection, and preservation of trees and shrubs. In order to secure the safety of the children, the person in charge of each school of over a hundred pupils is required to train the pupils in the "fire-drill," so that they may be able in a sudden emergency to leave the building without confusion or panic. There are many other provisions made by the legislature in order to secure efficiency in the schools of the State and to prepare the younger generation for the duties of citizenship.

63. Financial Support of Education

State moneys used for education.

The support of the educational system requires the expenditure of large sums of money. As the management of this money is somewhat distinct from that of the general finances of the State, we may consider it briefly in this connection. The money used to defray the expenses of education is derived from two sources: (1) The first source consists of certain educational trust funds, namely, the Literature Fund, the Common School Fund, and the United States Deposit Fund. The Literature Fund consists of certain property originally set apart for the encouragement of literature, the proceeds of which are now placed under control of the regents and distributed to the academies. The Common School Fund con-

sists of certain other property of the State, the proceeds of which are distributed by the State superintendent to the counties, for the support of the common schools. The United States Deposit Fund was derived from the surplus granted by the Federal Government to the State in 1836. It was placed on deposit for the benefit of education and is now used chiefly for the support of public libraries. (2) The second source from which the school moneys are derived is taxation. A part of this consists of the free school tax laid by the State upon the several counties for the support of the common schools, which tax goes into the Free School Fund. Another part consists of the general State tax, which goes into the General Fund, from which special appropriations may be made for educational purposes.

Appropriation for academies.

The legislature makes a yearly appropriation for the benefit of the academies, academic departments, and libraries. This appropriation is made from the income of the Literature Fund and the United States Deposit Fund. The money thus appropriated is apportioned by the regents among the various institutions for which it is intended. The amount apportioned to each academy or academic department is based upon the number of pupils who pass the "regents' examinations." These examinations are intended to ascertain how far each school is worthy of State aid. The money thus apportioned by the regents is paid by the State treasurer to the treasurer of each school board.

Appropriation for common schools.

The State money used for the support of the common schools comprises the money raised by taxation for that purpose, and the appropriations made by the

legislature from the income of the Common School Fund, and from the General Fund. All this money is placed in the State treasury and is apportioned among the various localities by the State superintendent. The method of this apportionment is somewhat complicated, and its details are fixed by law. It may be said in general that the effort is made so to apportion it as to give to each city, incorporated village, union free-school district, and common school district a just share of the money raised and appropriated by the legislature for the maintenance of the common school system of the State.

CHAPTER XI

THE SUPERVISION OF CHARITIES AND CORRECTIONS

64. References

Lalor, *Cyclopædia of Political Science*, "Charity, Public," "Charity, State," "Pauperism," "Prisons and Prison Discipline"; Ford, *American Citizen's Manual*, Part II. p. 96, "Charitable Institutions"; Ellis, *The Criminal* (in Contemporary Science Series); Pierce, *Half Century of Juvenile Delinquents*; Cammann and Camp, *Charities of New York, Brooklyn, and Staten Island.*

Constitution of New York, Art. VIII. §§ 11–15, "State Commissioners and Charitable Institutions," Art. III. § 29, "Prison Labor," Art. V. § 4, "Superintendent of Prisons"; *General Laws of New York*, ch. 15, "The Prison Law," ch. 26, "The State Charities Law," ch. 27, "The Poor Law," ch. 28, "The Insanity Law"; *New York Laws, 1898*, ch. 182, "Act for the Government of Cities of the Second Class," Art. IX., "Department of Charities and Corrections"; *Charter of New York City*, ch. 13, "Department of Public Charities," ch. 14, "Department of Correction"; *Reports* of the New York State Board of Charities; *Reports* of the New York State Commission of Lunacy; *Reports* of the Prison Association of New York; *Proceedings* of the National Conference of Charities and Correction; *Proceedings* of the New York State Conference of Charities and Correction.

65. Charitable Functions of the State

Public and private charity.

Perhaps the most difficult kind of work which the State is called upon to perform is that of helping those who are unable to help themselves. Poverty seems to be a necessary evil; and as long as men are moved by motives of charity there will always be a disposition to relieve the poor and distressed, in some way or other. This relief may be given by individual

almsgiving, or by private associations, or by State aid. Private charity, whether given by individuals or by associations, is prompted largely by benevolent motives. But public charity is prompted, not only by motives of philanthropy, but also by the desire to protect society from the evils and dangers which arise from the existence of a pauper class. Hence the State has in view not simply the relief of the individual in distress, but the decrease of the total amount of distress which exists in the community. And this policy applies not only to the pauper class, but to all classes of persons who for any reason are incapable of supporting themselves. Public aid, in short, is given not merely to confer temporary relief upon individuals, but to afford a permanent relief to the community. We may group all those persons who are thrown upon the care of the public into the following classes: the dependent classes, the defective classes, and the delinquent classes.

The dependent classes.

The dependent classes include those who through simple poverty are unable to support themselves, and need some aid from the public. They may be the aged and friendless, who have no relatives upon whom they can rely for support. They may be dependent children, who have no parents or guardian able to support them. They may be indigent sick persons, who have no means of providing medical attendance. They may be confirmed paupers, who need some support that they may not be driven into vice and crime. Or they may be honorably discharged soldiers or sailors, for whose support the public is willing to make some provision as a reward for valuable services already performed.

The defective classes.

The defective classes receiving State aid include those who, in addition to their poverty, are afflicted with some physical disability or disease, and require not only assistance but special care and support. They may be blind or deaf and dumb, and require special modes of training which cannot be given in ordinary schools. They may be idiotic or feeble-minded, and require constant care and attention. They may be afflicted with epilepsy, and need to be placed by themselves, where their peculiar disease can receive the special treatment which it requires. They may be insane persons, and need to be secluded in hospitals or asylums, where they may be properly treated if curable, or properly restrained and cared for if incurable.

The delinquent classes.

The delinquent class includes those who are placed in charge of the State, not on account of poverty or physical defects, but on account of moral perversity or crime. They are separated from the rest of society, not always for the purpose of punishment, but it may be for the purpose of reformation. They may be juvenile offenders, who are placed under special forms of discipline to develop in them habits of industry and a sense of right. They may be female delinquents, who are secluded for purposes of reform, and if need be, of punishment. They may be criminals, who have received the sentence of the court, and compelled to submit to the penalties of the law.

State institutions.

For all these classes the State has provided a special set of institutions — almshouses, homes, schools, asylums, hospitals, colonies, reformatories, prisons. These institutions, whether public or private, are all placed under the supervision of the government, and

many of them are supported at the public expense. Since the public money is used for the support of these institutions, the greatest care is necessary to insure economy and efficiency in their management, and to prevent unworthy persons from being made a public charge. The machinery of the central government and of the local government — the city, the town, and the county — is used to provide for the support of the persons mentioned who are not able to support themselves.

66. The State Charities Law

The State board of charities.

All these various classes of persons, and the institutions in which they are supported, — with the exception of the insane and the criminal classes, — are placed by law under the general supervision of the State board of charities.[1] This board is composed of twelve members who are appointed by the governor, with the consent of the senate. One is appointed from each judicial district, and one additional member from the county of Kings, and three additional members from the county of New York. The board elects the president and vice-president from its own members. It may employ a secretary and such other officers as are necessary to aid it in its proper work. It is divided into committees which look after different classes of institutions under its general charge.

Powers and duties.

The law declares that, "The State board of charities shall visit, inspect, and maintain a general supervision of all institutions, societies, or asso-

[1] *General Laws of New York*, ch. 26, "The State Charities Law."

ciations which are of a charitable, eleemosynary, correctional, or reformatory character, whether State or municipal, incorporated or not incorporated, which are made subject to its supervision by the constitution or by law."[1] With reference to such institutions the board has the power and is obliged to aid in securing a humane economic administration; to advise the officers as to their official duties; to aid in securing the erection of proper buildings and in securing their best sanitary condition; to see that children are provided with suitable industrial, mental, and moral training; to establish rules for the reception and retention of inmates; and to investigate the condition of the poor seeking public aid and advise measures for their relief.

Visitation and inspection.

The power possessed by the State board is made efficient by the authority given it by law to visit and thoroughly inspect all institutions under its supervision. The board may appoint a committee of one or more of its members to inspect any such institution. The committee thus appointed has the legal power to compel the attendance of witnesses and the production of papers; to administer oaths, and to examine persons under oath. If any abuses, defects, or evils are discovered in the management of an institution, it may correct them. By this means the charitable institutions of the State may be made to fulfil the purpose for which they are designed.

Institutions under the board.

The institutions which are placed by law under the supervision of this board are numerous and varied. There are a certain number of State charitable institutions which are entirely dependent upon the support

[1] *General Laws of New York*, ch. 26, § 9.

of the State.[1] There are many other institutions which, though established by private associations, are to a large extent dependent upon State aid. Besides these there are almshouses in all the counties of the State, supported by the county and towns. There are in addition a vast number of private charitable institutions, which are supported by the voluntary gifts of the public. All these institutions, whether public or private, are subject to the supervision and inspection of the State board of charities.

67. The Poor Law

Care of the poor.

A large part of the charitable work of the State is devoted to the care of the poor. The law defines a poor person as "one unable to maintain himself," and declares that "such person shall be maintained by the town, city, county, or State." The kind of maintenance or relief which is afforded to the poor may take one of three forms. It may consist in placing a person in an almshouse to be entirely supported at public expense. It may consist in giving him a certain

[1] The State charitable institutions, supported by public aid, are thirteen in number: Western Home of Refuge for Women, Albion; State School for the Blind, Batavia; Soldiers' and Sailors' Home, Bath; Craig Colony for Epileptics, Sonyea; State Reformatory, Elmira; House of Refuge for Women, Hudson; Custodial Asylum for Feeble-minded Women, Newark; Woman's Relief Corps Home, Oxford; Society for the Reformation of Juvenile Delinquents, Randall's Island; State Industrial School, Rochester; Custodial Asylum for Unteachable Idiots, Rome; Institution for Feeble-minded Children, Syracuse; Asylum for Orphan and Destitute Indian Children, Iroquois; House of Refuge for Women, Bedford. The great extent of the charitable work done in the State under the supervision of the State Board of Charities can be appreciated only by consulting the "Directory" issued with the report of this Board.

amount of aid at his own home. Or it may consist in furnishing him with some kind of out-door work which will partly pay for his support. However the aid may be given — whether by the almshouse, or by home relief, or by out-door relief — great care is necessary to discriminate between the worthy and the unworthy poor, and not to waste the public money. The duty of supporting the poor is divided between the county, the town or city, and the State. Those persons who must be supported or relieved by the county are called the "county poor"; those by the town or city, the "town poor"; those by the State, the "State and alien poor."

County superintendent of the poor.

The general supervision and care of poor persons in each county is in the hands of the county superintendent of the poor.[1] He is elected by the voters of the county for a term of three years. He must provide suitable almshouses, when directed by the board of supervisors; and make the rules necessary for the government and management of such almshouses, subject to the written approval of the county judge. He must draw on the county treasury for money necessary to maintain the poor at the almshouse, and to furnish necessary relief to the "county poor" who need only temporary aid, or who can be helped elsewhere than at the almshouse.

Town overseer of the poor.

The supervision and care of the "town poor" is in the hands of the overseer of the poor, in the town or city. The overseer may, if in his judgment an applicant needs public support, cause the removal of such person to the county almshouse; or give temporary

[1] *General Laws of New York*, ch. 27, "The Poor Law."

relief at their homes to such indigent persons as cannot, or need not, be removed to the almshouse.

Town and county poor.

In order to determine whether a person is properly chargeable to the town or to the county, the law fixes his place of "settlement." If a poor person has been a resident of a town or city for one year, he is regarded as having gained a settlement in that place, and must be maintained by the overseer at the expense of the town or city. If, however, he has not gained a settlement in any town or city in the county, but has been in the county for sixty days, he must be supported or relieved by the superintendent of the poor at the expense of the county. It is not permitted, without legal authority, to remove poor persons from one locality to another for the purpose of avoiding the duty of supporting them.

The State poor.

There may be certain persons who have not gained a settlement in any town or city, and who have not lived in any county for sixty days. Such persons who are chargeable neither to the town or county are regarded as the "State poor," and are supported at the expense of the State. For this purpose a certain number of almshouses are designated as State almshouses, which, in addition to maintaining the town and county poor, receive the poor of the State. Such almshouses are subject to the visitation of a State officer called the superintendent of the State and alien poor. Poor persons among the Indians are regarded as the State poor, and may be committed to the almshouse of any county in which they may reside, their support being paid for by the State.

Poor soldiers and sailors.

The law makes special provisions for those poor persons who have served their country. It provides

that "no poor or indigent soldier, sailor, or marine who has served in the military or naval service of the United States, nor his family, nor the families of any who may be deceased, shall be sent to any almshouse, but shall be relieved and provided for at their homes in the city or town where they may reside, provided they have been residents of the State for one year." If such soldiers and sailors have no homes they may be sent to the "Soldiers' Home." When they die, they are honorably buried at the State's expense, and their graves are marked by a suitable headstone.[1]

68. The Insanity Law

State commission in lunacy.

For the care of the insane the State provides a special commission called the State commission in lunacy. It consists of three members, appointed by the governor, with the consent of the senate, for the term of six years. The duty of this commission is to execute the laws of the State regarding the custody, care, and treatment of the insane; and to take a general supervision over all institutions, public or private, in which such persons are received for care or treatment.

Institution for the insane.

There are at present eleven hospitals situated in different parts of the State for the care and treatment of insane persons, who are thus provided for at the expense of the State.[2] Each of these institutions was formerly placed under charge of a board of managers,

[1] *General Laws of New York*, ch. 27, §§ 80–84.

[2] These are located at Utica, Ovid, Poughkeepsie, Buffalo, Middletown, Binghamton, Rochester, Ogdensburg, Colling, Kings Park, L. I., and Central Islip. See *General Laws*, ch. 28, Art. II.

appointed by the governor with the consent of the senate. The board has the power to establish rules for the management of the hospital, to appoint a superintendent who has immediate control of the institution, and to appoint a treasurer who has charge of its finances. By a recent law these boards have been abolished, and their powers have been transferred to the State commission in lunacy. This gives to the commission not only a supervisory, but a real administrative authority over the State institutions.

Order for commitment.

The legal method necessary to commit a person to a State hospital is intended first, to enable any person who is insane to be placed in such an institution; and secondly, to prevent any person who is not insane from being consigned to such an institution. A person can be committed only upon an order made by a judge of a court of record in a city or county, or by a justice of the supreme court in the judicial district in which the alleged insane person resides. This order of the court is based upon a certificate of lunacy made by two reputable physicians, and upon a petition made by some interested person, whether a near relative or the town overseer of the poor or the county superintendent of the poor. In [illegible] the question of insanity before the court [illegible] full opportunity to present evidence of [illegible] the case. As the result of this examination [illegible] may, if the evidence of insanity is insufficient, [illegible] the petition; or if the person is adjudged [illegible] may place the person in the hands of [illegible] willing and able to care for him, or [illegible] committing him to a State hospital.

[1] Laws of 1907, ch. 2.

Insane criminals.

For the care of those insane persons who may be committed by a criminal court, or who may become insane while undergoing a sentence in a prison, separate hospitals are provided.[1] The superintendents of these hospitals are appointed by the State superintendent of prisons.

69. The Prison Law

State commission of prisoners.

The custody and care of persons undergoing sentence for crime are provided for by "the prison law."[2] This law creates a State commission of prisons, composed of three members appointed by the governor and senate. The commission has the general supervision of "all institutions used for the detention of sane adults charged with or convicted of crime, or detained as witnesses, or debtors." It may inspect all such institutions, aid in securing their just, humane, and economical administration, and in obtaining proper buildings for the accommodation of the inmates. It may also recommend such methods of employing the inmates as may be for the best interests of the public. Like other commissions, its authority is made effective by the right of visitation, which gives it the legal entry to every institution under its charge, with the right to make a thorough examination as to its management.

Prison Assoeiation of New York.

Besides the visitorial power granted to the prison commission, the legislature has incorporated the Prison Association of New York, a society organized to promote the improvement of prisons. The legislature

[1] These hospitals are situated at Matteawan and at Dannemora.

[2] *Laws of New York, 1895*, ch. 1026.

has given to this society the power to visit and examine all the prisons of the State and to report annually any information that will enable the legislature to improve their government and discipline.

Management of prisons.

The general management of the three prisons of the State[1] is placed in the hands of the superintendent of State prisons, who is appointed by the governor and senate for the term of five years. The superintendent has the power to appoint in each prison a manager, called the "agent and warden," together with a physician and a chaplain. The agent and warden can appoint, with the approval of the superintendent, all the keepers, guards, and other employees which the superintendent thinks necessary for the good management and discipline of the prison.

Labor of prisoners.

There are special provisions made by the law for the employment of the inmates of prisons. The superintendent must see that all prisoners who are physically capable are employed at hard labor, not to exceed eight hours each day, except Sundays and holidays. Their labor must be directed, so far as possible, toward the production of articles which can be used by the public institutions of the State or the public institutions of the counties, cities, or towns. In order that the labor of prisoners may not be brought into competition with that of other laborers, the superintendent is forbidden to make any contract to let out the labor of prisoners to any person, firm, or corporation.

[1] These prisons are situated, one at Sing Sing in Westchester County, one at Auburn in Cayuga County, and one at Dannemora in Clinton County.

State reformatories.

There has been a tendency in recent years to bring to bear upon convicts some motives to reform, and to become law-abiding citizens. This tendency is shown in the establishment of "reformatories." Many institutions originally established for purposes of punishment have acquired more or less of a reformatory and charitable nature. Institutions for juvenile delinquents and reformatories for women have been placed under the supervision of the State board of charities, and relieved somewhat of the opprobrium of penal institutions. The State has also adopted the reformatory idea in establishing reformatories for men.[1]

The purpose of these institutions is to afford an opportunity and to give encouragement to the less depraved class of criminals to reform and lead a better life. A person may be sentenced by the courts to a reformatory, or certain persons may be transferred to it from a State prison. By continued good conduct an inmate may be "paroled," that is, permitted to leave the institution under certain conditions; or he may receive an absolute discharge from imprisonment.

County penitentiaries.

The reformatory and charitable idea is also applied to the county penitentiaries. They are intended to stand in somewhat the same relation to the county jail as do the State reformatories to the State prison, since they are intended to be educational

[1] There are two of these institutions: the New York State Reformatory at Elmira, under the management of a board of five managers appointed by the governor, and a superintendent appointed by the board; and the Eastern New York Reformatory at Napanoch, in Ulster County, under the management of the State superintendent of prisons.

or industrial as well as penal. While they are primarily county institutions, the State also uses them for the confinement of its own criminals. Certain persons, such as young men under twenty-one and over sixteen years of age, and also women when convicted of a State prison offence, may be sentenced to a county penitentiary, with the understanding that the State compensates the county for the expense of their maintenance.

Commutation of sentence.

An important feature of the prison law relates to the commutation of sentences, or the lessening of the time of service on account of good behavior. Any convict in a State prison or penitentiary may by proper conduct earn for himself such a commutation of his sentence. If he performs his work regularly and faithfully, and submits quietly to the rules of the institution, an allowance of one month is made on each of the first two years; of two months on each succeeding year to the fifth year; of three months on each following year up to the tenth year; and of four months on each remaining year of the term of his sentence. So that a convict under sentence of twenty years may on account of good behavior receive a deduction from his sentence of more than five years. The policy pursued in all the correctional institutions of the State is in harmony with the spirit of modern legislation — not merely to punish the criminal, but also to attempt to reform him, and thus to confer a benefit not only upon the prisoner himself, but upon society at large.

CHAPTER XII

THE CONTROL OF ECONOMIC INTERESTS

70. References

Adams, "Relation of the State to Industrial Action" (in *Proceedings of the American Economic Association*); Farrer, *The State in Relation to Trade;* Jevons, *The State in its Relation to Labor;* Bullock, *Introduction to the Study of Economics*, ch. 16, "Economic Functions of Government"; Ford, *American Citizen's Manual*, Part II. pp. 67–82, "Corporations."

Constitution of New York, Art. VII. § 7, "The Forest Preserve," Art. VIII., "Corporations"; *General Laws of New York*, ch. 11, "The Public Lands Law," ch. 12, "The Canal Law," ch. 19, "The Highway Law," ch. 30, "The Navigation Law," ch. 31, "The Forest, Fish, and Game Law," ch. 32, "The Labor Law," ch. 33, "The Agricultural Law," ch. 34, "The Domestic Commerce Law," ch. 35, "The General Corporation Law," ch. 36, "The Stock Corporation Law," ch. 37, "The Banking Law," ch. 38, "The Insurance Law," ch. 39, "The Railroad Law," ch. 40, "The Transportation Law," ch. 41, "The Business Corporation Law," ch. 42, "The Religious Corporation Law," ch. 43, "The Membership Corporation Law," ch. 44, "The Benevolent Order Law," ch. 45, "The Joint Stock Association Law"; *Reports* of the Forest Preserve Board, the Bureau of Labor Statistics, the Superintendent of Banks, the Railroad Commissioners, etc.

71. Economic Functions of the State

Private and public interests.

There has been much discussion as to how far the State has a right to control the economic interests of the community. It is not a part of our task to enter into this theoretical question. It is for us simply to inquire what are the economic interests of the community, and how far the government of this State

actually takes control of these interests. Here, as elsewhere, we must distinguish between public and private interests. We have already had our attention called to this distinction. In considering the sanitary law, for example, we saw that the government does not attempt to make each person healthy, but to preserve the general health of the community. In its educational laws, it does not profess to make every person a wise man, but to maintain the general intelligence of the community. So in its economic laws, it does not try to make each person wealthy, but to maintain the general prosperity of the community. In short, the State does not strive to make the individual healthy, wealthy, or wise. It strives simply to lessen those influences which will injure, and increase those influences which will promote, the general health, prosperity, and intelligence of the whole community.

Economic interests.

In defining the economic interests of the community, we may say that they include all those interests which are involved in the production, distribution, and exchange of wealth. Whatever tends to increase the total amount of wealth in the community, whatever tends to its more fair and equitable distribution among those who help to produce it, and whatever makes more easy its exchange from one person to another, will contribute to the economic interests of society. To maintain these interests the government must protect the sources from which wealth is derived. As all wealth is derived from land, labor, and capital, the land must be protected, labor must be protected, and capital must be protected.

Economic industries.

But these sources of wealth do not produce anything when separated; they must be combined in the various industries, agricultural, manufacturing, and commercial. In the agricultural industries these sources of wealth are united to obtain the products of the soil; in the manufacturing industries, to change the raw material into forms suitable for use; in the commercial industries, to transfer the products from the producers to the consumers. In looking over the economic work of the State, we must then notice what the government does to protect land, labor, and capital, and what provisions it has made for the control of agriculture, manufactures, and commerce.

72. The Public Lands

Commissioners of the land office.

The government has no direct control over the lands within the State, except those which are owned by the State itself, that is, the public lands. These lands are placed under the general control of State officers called the commissioners of the land office. This board is made up entirely of *ex-officio* members, namely, the lieutenant governor, the speaker of the assembly, the secretary of state, the comptroller, the State treasurer, the attorney general, and the State engineer and surveyor. The board has the control of all State lands except those which are placed under the special charge of some other officers or board. It may lease such lands for a term not exceeding one year. It may protect them by preventing trespasses or any injury to the property. It may also sell such lands and issue letters patent securing the title.

Lands subject to the commissioners.

The lands of the State which are subject to the commissioners of the land office include: (1) all unappropriated State lands, that is, lands which are not occupied for any specific public use; (2) abandoned canal lands, that is, lands which were originally acquired for canal purposes, but which the canal board has abandoned for such purposes; (3) escheated lands, that is, lands which have reverted to the State on failure of heirs.

Niagara reservation.

The government has purchased the lands about Niagara Falls as a State reservation. This land is reserved as the law says "for the purpose of restoring the scenery of Niagara Falls and preserving it in its natural condition, and kept open and free of access to all mankind without fee, charge, or expense to any person for entering upon or passing to or over any part thereof."[1] This reservation is placed under a commission of five members, appointed by the governor, and having the power to make all rules and regulations necessary to fulfil its purposes. Similar provisions have been made for the preservation of the natural scenery at Watkins Glen and along the Palisades on the Hudson River.

State authority over private land.

The private lands within the State are, generally speaking, not subject to the control of the government. The government has authority, however, over such private lands, as we have seen, for police purposes. It has also the right to tax such lands, and to exercise over them the right of "eminent domain," that is, to appropriate them for public uses, on condition of paying a just compensation. It has, finally, the right of escheat, whereby private lands revert to the State on failure of heirs.

[1] *General Laws of New York*, ch. 11, § 93.

73. Protection of Forests, Fish, and Game

Commissioner of forests, fish, and game.

The exercise of State authority for economic purposes is somewhat more evident in the laws relating to the protection of forests, fish, and game. As fish and game form important articles of food, their propagation and protection are a matter of public concern, as is also the protection of the forests and waters in which they live. The administration of the laws relating to these subjects is placed in the hands of a single officer called the commissioner of forests, fish, and game, appointed by the governor for the term of four years.[1]

Forest preserve.

The State has acquired and reserved extensive forest lands in the region of the Adirondack Mountains, of the Catskills, and along the St. Lawrence River as a "forest preserve" to be always preserved in their wild state. This public land, being appropriated for a special public purpose, is not like other public land placed under control of the land office, but is put in charge of the commissioner of forests, fish, and game. From this land are laid out certain tracts, which are known as the "Adirondack Park," the "St. Lawrence Reservation," and the "Deer Parks," in the Catskills. The forest commissioner has control over the entire forest preserve, including these special parks, and has power to make rules for their protection and proper use.

Game laws.

The laws made by the legislature for the protection of game apply to other parts of the State as well as to the forest preserve, and are placed under the forest, fish, and game commissioner. These laws provide for

[1] *Laws of New York, 1901*, ch. 94.

"close seasons," that is, the periods of time within which fish or game cannot be taken or killed. It provides for close seasons for quadrupeds, including deer, moose, elk, squirrels, hares, rabbits, foxes; for birds, including wild ducks, geese, quail, woodcock, grouse, plover; for fish, including trout, bass, pickerel, pike, muskallonge, salmon. The law also restricts the manner of hunting certain game. For example, deer cannot be hunted by means of traps or with the aid of dogs; wild ducks and geese cannot be taken except with a gun fired at arm's length without a rest.[1]

Game protectors.

In order to enforce the game laws, the commissioner has the power to appoint game protectors, thirty-eight in number, one of whom is designated as chief game protector. These officers have the power to enforce not only all laws relating to fish and game, but also all laws and regulations for the protection of the forest preserve, and the State public parks. They have also the power to execute all warrants issued for a violation of any provision of the forest, fish, and game law.[2]

74. Agriculture and Agricultural Products

Department of agriculture.

The government also exercises a certain supervision over the industrial interests of the community through the laws relating to agriculture and agricultural products. There is in the State government a department of agriculture, the chief of which is the commissioner of agriculture, appointed by the governor and senate for the term of three years. He may appoint clerks, chemists, and other assistants to

[1] *General Laws of New York*, ch. 31, Part I.

[2] *Ibid.*, ch. 31, §§ 170–179.

aid him in his duties. The members of this department have full access to all places of business, farms, or factories, buildings, cars, or vessels, wherein products are manufactured, transported, or sold, which come under the provision of the agricultural law.[1]

Dairy products.

This department has supervision of the manufacture of all dairy products throughout the State, and can enforce the laws intended to prevent the adulteration or imitation of these products, the use of unhealthy utensils in their manufacture, or the use of false brands in their sale.[2]

Diseases of domestic animals.

The department may also use all necessary means to suppress infectious and contagious diseases among domestic animals. The commissioner may make such regulations as he thinks necessary for this purpose. He may prevent diseased animals from coming into the State, and destroy those already in the State, if necessary, to prevent the spread of infection or contagion.[3]

Sugar beet culture.

The provisions just mentioned are largely of the character of police regulations for the protection of the community; but there are others which are intended to promote more directly the agricultural interests of the State. For example, the government has made special efforts to encourage the manufacture of sugar from beets grown within the State. Money has been appropriated for this purpose, and the commissioner of agriculture is authorized to apportion this money to persons or firms engaged in its manufacture under conditions prescribed by the law.[4]

[1] *General Laws of New York*, ch. 33, § 3.
[2] *Ibid.*, ch. 33, Art. II.
[3] *Ibid.*, ch. 33, Art. IV.
[4] *Ibid.*, ch. 33, Art. V.

Agricultural experiment stations.

For the purpose of promoting agriculture by scientific investigation and experiment, the State has established an agricultural experiment station at Geneva. This station is under the control of a board of trustees and is supported by State aid. Another station is established in connection with Cornell University at Ithaca. The work done at these stations is supported by the State for the benefit of the people; and such experimental work is under the general supervision and direction of the State commissioner of agriculture.[1]

State weather bureau.

The commissioner has also control and management of the State weather bureau, which is established and supported by the government for the making of meteorological observations. He is authorized to establish voluntary weather stations in the different congressional districts to act in coöperation with the United States, for the purpose of increasing the usefulness of the weather service of the State and of the United States.[2]

Agricultural societies.

For the further encouragement of agriculture the legislature makes annual appropriations of money to the various agricultural societies of the State. These appropriations are apportioned in general with reference to the amount of premiums paid by each society at the annual fair, when these premiums are offered to stimulate agricultural and industrial enterprise. The societies which thus receive State aid are required to report to the State commissioner of agriculture.[3]

[1] *General Laws of New York*, ch. 33, §§ 85, 87.
[2] *Ibid.*, ch. 33, § 86. [3] *Ibid.*, ch. 33, §§ 89–90.

75. Labor and Factory Laws

Department of labor.

The laws relating to the employment of labor and the management of factories offer another illustration of the economic functions performed by the State government. The administration of these laws is intrusted to the department of labor, created by an act of 1901. The chief of this department is the commissioner of labor, appointed by the governor and senate for the term of four years. The commissioner appoints a first and a second deputy, who hold office during his pleasure. The department is divided into three bureaus — the bureau of factory inspection, under charge of the first deputy; the bureau of labor statistics, under the second deputy; and the bureau of mediation and arbitration, under the special charge of the commissioner himself. The commissioner and the two deputies constitute a board having the powers and duties heretofore conferred upon the State board of mediation and arbitration.[1]

Hours of labor.

The first provision of the general labor law relates to the number of hours which constitute a legal day's work. The law provides that "eight hours shall constitute a legal day's work for all classes of employees in the State, except those engaged in farm and domestic service, unless otherwise provided by law." In factories it is permitted to employ labor for ten hours a day. In the case of labor on street railroads, in brickyards, and on steam railroads, ten hours are specially designated as a legal day's work. In the case of a railroad accident, extra labor may be required, but only on the condition that extra pay is

[1] *Laws of New York, 1901*, ch. 9.

given. When a person employed on a railroad train has been required for any cause to work twenty-four consecutive hours, he is not permitted to go again on duty until he has had at least eight hours' rest.[1]

Labor statistics.

In order to obtain information regarding the condition of labor and the industries of the State, provisions are made for the collection of statistics. These statistics must show the important facts "in relation to all departments of labor in the State, especially in relation to the commercial, industrial, social, and sanitary condition of the workmen and to the productive industries of the State."[2] The persons who are in charge of these industries must furnish the necessary information whenever applied to by the proper officer. An annual report of these statistics is made to the legislature.

Public employment bureaus.

The difficulty of finding employment in large cities has led the government to provide for the establishment of "free public employment bureaus" in cities of the first class, that is, in cities having a population of over two hundred and fifty thousand. Each bureau is placed under a superintendent appointed by the State commissioner of labor. Here are received the applications of persons seeking to employ labor, and also the applications of persons seeking for employment; and for this service the government receives no compensation or fee.[3]

Factory regulations.

The growth of large factories in recent years has brought with it certain evils which the government seeks to correct. These evils in great part grow out

[1] *General Laws of New York*, ch. 32, § 7.
[2] *Ibid.*, ch. 32, § 31. [3] *Ibid.*, ch. 32, Art. III.

of the employment of young persons who ought not to be employed, and the bringing together in buildings of a large number of persons with little regard for their safety or health. In regard to the employment of minors the law makes the following provision: "A child under the age of fourteen years shall not be employed in any factory of the State. A child between the ages of fourteen and sixteen shall not be so employed, unless a certificate executed by a health officer be filed in the office of the employer."[1] Special provisions are also made for the safety of employees. Elevators must be properly constructed and inspected; stairs must be provided with hand-rails, and doors must open outward. Dangerous machinery must be protected by safeguards. Fire escapes must be provided on every factory three or more stories in height. All boilers used for generating steam or heat must be kept in good condition, and regularly inspected. Provisions are finally made for the health of the employees. The walls and ceilings of each workroom must, if thought necessary, be lime-washed or painted. The size of the room must be proportioned to the number of persons employed in it, and proper ventilation must be secured. To enforce these provisions special factory inspectors are appointed with appropriate power.[2]

Mediation and arbitration.

The State has, moreover, sought to provide for the settlement of disputes between employers and employees by means of mediation and arbitration. The commissioner of labor and his two deputies are con-

[1] *General Laws of New York*, ch. 32, § 70.
[2] *Ibid.*, ch. 32, Art. VI.

stituted a board to aid in these settlements. A grievance or dispute may be referred to the board for its investigation and decision. Whenever a strike or lockout occurs the board is obliged to inquire into its cause, and to use its influence to bring about an amicable settlement. Employers and employees may refer their disputes if they so desire to local arbitrators, from whose decisions an appeal may be made to the State board, the decision of which is regarded as final.[1]

76. Domestic Commerce

Weights and measures.

A large part of the industrial life of the community consists in commercial transactions, or the buying and selling of goods. The business of the community requires that certain standards shall be fixed, by which goods and money can be properly measured; otherwise no one would know exactly the quantity of goods he was buying, or exactly the value of the money he was paying. The fixing of the standard of money and the standard of weights and measures is one of the powers delegated to the United States Government. The supervision of the money standard is left entirely with the Federal Government. But the State government has adopted special provisions whereby the Federal standard of weights and measures shall be strictly adhered to in every part of the State and in every form of commercial transactions. For this purpose, there is a State superintendent of weights and measures, appointed by the governor, lieutenant governor, and secretary of state. He is obliged to preserve the original State standards in a secure

[1] *General Laws of New York*, ch. 32, Art. X.

place, from which copies may be made for the correction of the county standards, which in turn are used by the county sealer of weights and measures to correct the town and city standards. Finally, the sealer of weights and measures in each town or city stamps with an official seal the standards used by business men in their dealings with each other.[1]

Trade-marks and brands.

While the government may fix a standard whereby the quantity of the goods may be accurately measured, it is difficult to fix any standard in regard to their quality. A certain standard is indeed fixed in respect to a few things, like distilled spirits and oils and fertilizers. But the purchaser must generally depend upon his own judgment, or upon a special guarantee given by the seller. The law does much, however, to maintain a high grade of goods, by authorizing and protecting the use of "trade-marks" and "brands." A trade-mark or brand legally adopted by one manufacturer may not be used by another. Hence, the person who buys goods stamped with a legal trade-mark knows that the goods are guaranteed to be what they are represented to be by the manufacturer. In this way the government protects every firm which tries to maintain a high standard in the quality of its goods.[2]

Prevention of monopolies.

The government recognizes the fact that, generally speaking, every business is best managed when carried on freely and without restraint. But it also recognizes the fact that when a business is conducted in such a way as to be detrimental to the welfare of the people, it must be placed under restraint. If, for example, a firm gets such an exclusive control of the

[1] *General Laws of New York*, ch. 34, Art. I.
[2] *Ibid.*, ch. 34, Art. II.

manufacture or sale of any article as to prevent competition, and is thus able to control its price without regard to the cost of its production, such a firm would hold a power inconsistent with the best interests of the community. Especially would this be the case if the article was one of common use and necessity. The State therefore seeks to prevent such a monopoly. The law declares that every contract or combination, which creates a monopoly in the manufacture or sale of any article of common use so as to restrain or prevent competition, is "against public policy, illegal and void." Any attempt to form such a monopoly is declared a misdemeanor, subject to a heavy penalty.[1]

Miscellaneous provisions.

The "domestic commerce law" contains many other provisions relating to business and trade, such as the establishing of the legal rate of interest at six per cent, the licensing of pedlers, pawnbrokers, and private detectives, the regulation of brokerage, stock jobbing, and dealings on commission, the fixing of the liability of innkeepers, etc. All these provisions are evidently intended to protect the people from illegitimate business methods, rather than to aid them in business enterprises.

77. Highways and Bridges

General provisions.

The industrial interests of the community require the construction and maintenance of proper roads and bridges, so that different localities may be brought into relation with each other. As these means of communication are intended for the public use, they are built and kept in order by the public

[1] *Laws of New York, 1899*, ch. 690.

authorities and at the public expense. If it is necessary to appropriate private land for such a public use, the land may generally be taken, on condition of giving to the owner a proper compensation. With few exceptions, the duty of constructing and maintaining the public roads and bridges throughout the State is placed by the general law upon the local authorities, the town and the county. In the case of villages and cities, this duty is expressed in the charter of incorporation.

Highways in towns.

The highways in each town are placed under the charge of the highway commissioners, either one or three in number, elected for the term of two years. They are obliged to keep in repair the existing roads and bridges of the town, and when legally authorized, to construct new ones. When the roads are maintained by the old "labor system," the commissioners fix the number of day's labor required of each landowner. Any town may, however, adopt what is called the "money system," whereby the maintenance of the highway is paid for like any other town expense by taxation, levied and collected like other town taxes. The commissioners may divide the town into highway districts, and appoint overseers to look after the roads of each district.[1]

County road system.

As there may be certain roads which may require a more general and careful supervision than that which the towns are able or disposed to give, the board of supervisors of the county may adopt what is called the "county road system." By adopting this system, the supervisors may designate any part or parts of the public highways in the county (not in-

[1] *General Laws of New York*, ch. 19, §§ 4, 25, 50–53.

cluded in a city) as "county roads." The expense of improving, repairing, and maintaining such county roads is paid by the county, and it is apportioned by the board of supervisors among the various towns and cities of the county, as the board thinks just. The jurisdiction of the county roads in any county is placed in the hands of the board of supervisors, assisted by a county engineer whom the board appoints.[1]

Highways in villages and cities.

In villages, the care of highways or streets is placed in the hands of the street commissioner, who acts under the direction of the board of trustees. In the case of cities, this important duty is provided for in the charter of incorporation, or in the general law regarding cities of the second class. In this latter class, the jurisdiction over streets is given to the commissioner of public works, whom the law charges "with all the duties of commissioners of highways within the towns of the State." In the city of New York this jurisdiction is given to the department of highways.[2] However this authority may be exercised, it is derived from the State government, and is intended to be used to promote the convenience and industrial interests of the people.

78. Canals and Navigation

The canal board.

One of the distinguishing features in the commerce of New York is the canal system, which has been constructed and maintained by the State authority. It may be said that the completion of the Erie Canal

[1] *General Laws of New York*, ch. 19, §§ 54–59.

[2] *Charter of New York City*, ch. 10, Title 5.

in 1825 marks an epoch in the commercial prosperity of the State. The management of this canal with its various branches is a very important economic function performed by the government, and requires the greatest care and prudence.[1] The general jurisdiction in matters relating to the canals is placed in the hands of a body of officials called the "canal board." This board is made up of the following officers: (1) the commissioners of the canal fund (who are the lieutenant governor, secretary of state, comptroller, treasurer, and attorney general, *ex officio*), who have special control of the money or funds appropriated or set apart for the maintenance and improvement of the canals; (2) the superintendent of public works, who is appointed by the governor and senate during the term of the governor; and (3) the State engineer and surveyor, elected by the people for the term of two years. The duties of the board thus constituted are largely supervisory and judicial. It decides whether any of the canal lands may be sold, and whether any such lands have been abandoned for canal purposes, and investigates and decides upon all matters pertaining to the proper management of the canals.[2]

[1] The canal system of the State, which comes under the provisions of "the canal law," includes: (1) the Erie Canal, connecting the waters of Lake Erie at Buffalo with those of the Hudson at Albany; (2) the Champlain Canal, connecting Lake Champlain with the Hudson; (3) the Cayuga and Seneca Canal, connecting Seneca Lake with the Erie Canal; (4) the Oswego Canal, commencing at Syracuse and terminating at Oswego; (5) the Black River Canal, extending from the Black River to the Erie Canal at Rome.

[2] *General Laws of New York*, ch. 12, Art. II.

Superintendent of public works.

The most important executive officer connected with the canal system is the superintendent of public works, appointed by the governor and senate during the governor's term. He is the real responsible agent of the State for the purpose of keeping the canals in proper repair, and for the purpose of improving or enlarging them, when such work is authorized. He enforces the provisions of the canal law, and makes all necessary rules for safe and speedy navigation. He is, also, with his assistants, armed with police powers, whereby he may arrest any person committing a crime which affects the canals, and take such a person before a magistrate to be dealt with according to law.[1]

State engineer and surveyor.

The engineering work relating to the canals is put in charge of the State engineer and surveyor, who is elected by the people for the term of two years. He makes the surveys, maps, plans, and estimates required in the work of construction, and appoints subordinate engineers for each of the three divisions of the canal system. He is also required to visit and inspect the canals of the State at least once a year, and report such suggestions as in his judgment the public interest requires.[2]

Canal navigation.

That the transportation of goods on canals may be properly conducted certain rules are necessary. In the first place, the superintendent of public works must keep a "registry" of all boats engaged in navigating the canals. In the next place, every master of a boat must have a "bill of lading," which contains a complete list of all the goods conveyed in

[1] *General Laws of New York*, ch. 12, Art. III.

[2] *Ibid.*, ch. 12, Art. IV.

the boat, and the places from which and to which they are shipped. Again, in passing from one place to another, the master must receive "clearance papers," which show that the goods intended for the place about to be left have been unladen, and that the boat is permitted to proceed. Finally, regulations are made limiting the rate of speed to four miles an hour; determining the mode in which boats shall pass through locks; prohibiting obstructions to navigation; making boats liable for penalties imposed upon their owners or masters, and other similar matters — all of which are intended to make the transportation of goods upon the canals efficient and safe.[1] As the canals are owned by the State and are managed for the benefit of the whole people, the constitution provides that "no tolls shall hereafter be imposed on persons or property transported on the canals."[2]

River navigation.

Not only does the government have the control of the navigation on the canals, it also exercises a supervision of the navigation on the rivers of the State. Since this involves the transportation of passengers as well as goods, special precautions of a police character are necessary to protect the public.[3] These involve the inspection of steam boilers by qualified persons; the proper construction of steamboats so as to prevent fires; the erection of suitable stairways and gangways; the establishment of sailing rules so as to prevent collisions; the furnishing of life boats and life preservers; the forbidding of trials of speed between vessels, etc. All navigable

[1] *General Laws of New York*, ch. 12, Art. IX.
[2] *Constitution of New York*, Art. VII. § 9.
[3] *General Laws of New York*, ch. 30, Art. I.

rivers in the State are regarded as public highways, and all obstructions tending to impede navigation are prohibited. The enforcement of the rules regarding navigation on rivers, like that on the canals, is in the hands of the State superintendent of public works; and these rules are intended in like manner to protect and promote the interests of the people.

79. Control of Corporations

Nature of corporations.

All the business of the community is conducted in one of three ways: (1) by private individuals, who are practically free and unrestrained in their action; (2) by firms or partnerships, the members of which are bound together by a contract, and are limited by the terms of the contract; or (3) by corporations, which are bodies of persons organized under government authority, and which are limited by the provisions of the charter or law under which they are formed. By far the largest part of modern business is done through corporations. This is so, because by their methods of organization and skilful management they are able to do business more economically and efficiently than private persons, whether acting individually or in partnerships. As corporations cannot be created except by the government, and as all the powers which they have are derived from the government, they are, in fact, the most important economic agencies through which the government may promote the interests of the people. It is probably true that the greatest economic function performed by the State government is exercised through its power to create corporations, and to fix and supervise the powers which they exercise.

Corporate powers.

The powers which are and must be given to all corporations are those which are necessary to do ordinary business, that is, the power to elect officers and to make by-laws; the power to receive, hold, and dispose of property, to make contracts, and to sue (which involves the liability to be sued) in a court of law. These are the general and essential powers of a corporation. Beyond these general powers, there may be granted to different kinds of corporations special powers, according to the special purpose for which they are created. But even in this case, the constitution of the State provides that the special powers granted to corporations must be conferred by general laws, and not by special acts.[1] This means that a corporation cannot be created for the sole benefit of a particular body of persons. It must be of such a character as to promote the interests of all persons engaged in, or related to, the same kind of business throughout the State. The corporation, in short, must be created for the benefit and not for the detriment of the people.

Classification of corporations.

In order to deal intelligently with the various kinds of corporations in the State, the law groups them into different classes, as follows: —

(1) *Municipal corporations*, or the territorial divisions of the State established by law for the purpose of self-government; these include the county, the town, the school district, the village, and the city.

(2) *Stock corporations*, or those corporations which

[1] The Constitution makes an exception of municipal corporations and those "cases where, in the judgment of the legislature, the object of the corporation cannot be attained under general laws." — *Constitution of New York*, Art. VIII. § 1.

are organized primarily for the purpose of making pecuniary profits, having a capital stock divided into shares, and authorized by law to distribute to the stockholders dividends or shares of the surplus profits of the company. Such corporations include (*a*) moneyed corporations, that is, banking corporations and insurance companies; (*b*) transportation corporations, that is, railroad companies and other companies engaged in the transportation of persons or commodities; and (*c*) business corporations, that is, all other companies formed to carry on business involving a division of profits.

(3) *Non-stock corporations*, or all private corporations other than those designated as stock corporations, and not organized primarily for the division of pecuniary profits. These include (*a*) religious corporations, that is, churches, and other religious bodies; and (*b*) membership corporations, that is, societies organized for the mutual benefit of the members, other than for a mere pecuniary benefit; these include cemetery associations, societies for the prevention of cruelty, hospitals, Christian associations, bar associations, veteran associations, benevolent orders, or any other lawful associations organized for a similar purpose.[1]

Supervision of corporations.

The great power which can be exercised by organized bodies of men, as compared with private individuals, makes it necessary to place corporations under government control. This control may be exercised, in the first place, by the careful preparation of the laws by which these bodies are created and from

[1] The classification given in the "general corporation law" adds a fourth class, "mixed corporations"; but these are mostly treated in the law as coming under membership corporations.

which they derive all their power. The most effective way to control a corporation is through the law which creates it. The government has, therefore, used the best legal ability of the State to frame the laws relating to corporations, defining with the utmost care and greatest detail their powers and limitations.[1] The control of corporations may be exercised, in the second place, by a strict government supervision and inspection to see that the provisions of the law are properly observed, and by published reports enabling the community to know of the condition and methods of their business. In looking over the various corporations, as classified in the previous paragraph, we can see that those companies which are organized for the purpose of making money and of dividing the profits among their members would be most likely to need supervision—that is, the stock corporations. And of these, the corporations that come into the closest relation to the people at large are probably the banks, the insurance companies, and the railroads. Over these corporations the government has established special means of supervision.

State banking department.

The supervision of all banks in the State is placed in the hands of the State banking department.[2] The

[1] The thoroughness with which this work has been done may perhaps be judged from the fact that of the four thousand pages covered by the *General Laws of New York*, as compiled by the Statutory Revision Commission, nearly one-fourth of the space is devoted to the laws relating to the different kinds of corporations.

[2] The term "bank" is defined in the law to mean "any monied corporation authorized by law to issue bills, notes, or other evidences of debt for circulation as money, or to receive deposits of money and commercial paper, and to make loans thereon, and to discount bills, notes, or other commercial paper, and to buy and sell gold and silver

chief of this department is the superintendent of banking, appointed by the governor and senate for the term of three years. He is aided in his duties by the necessary clerks and a large staff of bank examiners. He has the power, and it is his duty, either personally or by his examiners, to visit and inspect from time to time every banking institution in the State. He must ascertain its condition and resources, its mode of conducting business, the character of its investments, and whether the provisions of its charter and of the law have in all respects been complied with.

State insurance department.

The supervision of all insurance companies is placed in the hands of the State insurance department, the chief of which is the superintendent of insurance, appointed by the governor and senate for the term of three years.[1] He is authorized as often as he thinks necessary to appoint competent and disinterested persons to examine into the business of any insurance company in the State; and the officers of such company are obliged to produce its books and all papers in its possession necessary to ascertain the true financial condition of the company. Such an examination may be made upon the demand of any stockholder or creditor of the company, when such demand is put in the proper legal form.

bullion, or foreign coins, or bills of exchange" (*General Laws*, ch. 37, Art. I. § 2). Banking institutions include not only ordinary banks of deposit, issue, and discount, but savings banks, trust companies, building and loan associations, mortgage, loan, and investment companies, and safe deposit companies.

[1] Insurance companies include life, health, and casualty insurance companies, fire and marine insurance companies, title and credit guarantee corporations, fraternal beneficiary societies, companies for the insurance of domestic animals, and town and county coöperative insurance companies. See *General Laws*, ch. 28.

State railroad commission.

For the supervision of the railroads of the State there is established a board of railroad commissioners consisting of three members appointed by the governor and senate for the term of five years.[1] This board is obliged to keep informed as to the condition of all railroads, and the manner in which they are operated for the security and accommodation of the public, and their compliance with the provisions of their charter and the law.

Government and the public welfare.

It is evident that the State looks upon corporations as a necessary part of the industrial life of the community; that their powers are granted not merely to benefit their own members, but to promote the interest of the people; and that they are subject to restraint and supervision so far as they are likely to encroach upon the public welfare. We may conclude that the work of the government in its relation to the industrial interests of the community is in harmony with its work in relation to the other social interests which we have considered — the administration of justice, the protection of the life, property, health, and morals of the community, the support of public education, and the supervision of charities and corrections. The government seeks to control the liberty and interests of individuals only so far as these come into relation with the liberty and interests of the community. It adjusts the relations between the component parts of society only to promote the higher freedom and welfare of society as a whole.

[1] *General Laws of New York*, ch. 39, Art. VI.

CHAPTER XIII

THE MANAGEMENT OF THE PUBLIC FINANCES

80. REFERENCES

On public finance in general: — Plehn, *Introduction to Public Finance;* Daniels, *Public Finance;* Adams, *Science of Finance;* Barnstable, *Public Finance;* Cooley, *On Taxation;* Adams, *Public Debts;* Johnson, *Cyclopædia,* "Finance," "Taxation"; Lalor, *Cyclopædia of Political Science,* "Taxation"; Seligman, *Essays on Taxation;* Cossa, *Taxation, its Principles and Methods,* Eng. trans.

On taxation in American States and cities: — Ely, *Taxation in American States and Cities;* Wells, *Report on Taxation* (50th Congress, 1st session, Ex. Doc. No. 400); Bryce, *American Commonwealth,* I. ch. 43, "State Finances"; Ford, *American Citizen's Manual,* Part II. p. 149, "State Taxation," p. 161, "Debts"; Seligman, *Financial Statistics of American Commonwealths;* Saxton, *Tax Law of New York;* Davies, *Taxation in New York State;* Durand, *Finances of New York City;* Schwab, "History of New York Property Tax" (in *Publications* of the American Economic Association, vol. V. p. 363 *et seq.*).

Documents: — *Constitution of New York,* Art. VII., "State Debts," Art. VIII. § 10, "Limitation of Indebtedness"; *General Laws of New York,* ch. 10, "The Finance Law," ch. 24, "The Tax Law," ch. 29, "The Liquor Tax Law"; *Laws of New York, 1898,* ch. 182, "Act for the Government of Cities of the Second Class," Art. IV., "Department of Finance," Art. VIII., "Department of Assessment and Taxation"; *Charter of the City of New York,* ch. 6, "Department of Finance," ch. 17, "Taxes and Assessments"; *Reports* of the New York State Comptroller, State Treasurer, Tax Commissioners.

81. THE FINANCIAL BUSINESS OF THE STATE

Cost of administrative work.

We have now passed in review the most important kinds of work which the government performs for

the benefit of the people. But it is evident that this work cannot be accomplished without expense. To punish a crime, to prevent the spread of an infectious disease, to build a schoolhouse, to support a public charity, to construct a road or a bridge — all require the expenditure of money. The State pays in one year for the administration of justice more than one million of dollars; for the public safety over nine hundred thousand dollars; for the support of public education more than five millions; for charities and corrections nearly eight millions; and for the economic interests of the State more than five millions. The most important items of cost in the work of the State are those which relate to the preservation of the peace and safety of the community, to the care of the unfortunate, and to the industrial and educational welfare of the people.

General government expenses.

But to do this work it is also necessary to maintain the government, or the body of officials through whom the functions of the State are exercised. The government is maintained not for its own sake, or for the benefit of those who hold official position, but for the benefit which it confers upon society. So far as the government is the legitimate organ of the State, and expresses the will of the people, it is, like any other agent, entitled to compensation for the work which it performs. To make wholesome laws and to execute these laws entail an expense which must be met.

Exercise of the money power.

To the government must therefore be given another function, that of raising money and of expending it. Though this function is subsidiary to the other functions which we have mentioned, it is yet one of

the most important, and perhaps the most difficult of all to exercise in a satisfactory way. As the government is not a business institution organized to make money, it has no right to use the money power for the purpose of enriching itself, but only for the purpose of benefiting the people. The money power of the State is confined to the raising of revenues for the purpose of making expenditures; and these expenditures are made for the ultimate purpose of carrying on the administrative work of the State. The mode in which these revenues are obtained and the mode in which they are expended are of the most vital interest to every citizen. If they are raised with no regard to justice and expended with no regard to the public welfare, the exercise of the money power becomes a source of political corruption and of general misery. To administer the finances properly, that is, to use the money power with justice and with prudence, is a mark of good government and a condition of general prosperity.

The State treasury, and its funds.

To understand how the State finances are administered, we must first of all know what is meant by the State treasury, and the funds which it contains. The treasury is the depositary of the State's money. In the treasury all the moneys which are raised for State purposes must be placed; and from the treasury all the moneys which are paid for State purposes must be drawn. The treasury is therefore the centre of the State's financial business. To know what are the funds of the treasury, the methods by which these funds are raised, and the methods by which they are expended, is to understand in great part the administration of the finances. All the moneys in the State

treasury are separated into different funds—a "fund" being a portion of money set apart and devoted to a certain purpose. There is, in the first place, the "general fund," that is, the portion of money which is raised and used to pay the general expenses of the government, which are not provided for by any special fund. Next is the "canal fund," set apart for the special purpose of maintaining the canals. Then comes the "free school fund," which consists of the money raised for the support of public schools — in addition to what is derived from other sources. The other money used for educational purposes comes from "trust funds," which are invested in securities, and the interest of which goes into the treasury for school purposes. These educational trust funds comprise what is called the "common school fund," the interest of which is divided among the counties of the State for the support of the public schools; the "United States deposit fund," the interest of which is apportioned among the libraries of the State; and the "literature fund," the interest of which is divided among the academies and academic departments. There are other small funds, but those mentioned are the most important. The different funds of the treasury are kept distinct from each other, and accounts are kept showing the money which is received by each and which is paid from each.[1]

Financial officers of the State.

The two important financial officers of the State are the State treasurer and the State comptroller. The treasurer is the custodian of all the moneys in the treasury. He receives these moneys, and he pays them out; he keeps an account of all receipts

[1] See Appendix E, § 105, C, "State Funds Account."

and payments and makes an annual report to the legislature. The comptroller is the chief financial agent of the State, and one of the most responsible officers of the whole government. No money can be paid from the treasury except upon his warrant or order; he audits the State accounts; he invests the State moneys when they are to be invested; and he holds the bonds and mortgages and other securities belonging to the State. He also performs the most important duty of making an estimate of the expenses of each fiscal year, and of the revenues which are required to meet these expenses.

82. Sources of Public Revenue

Revenue and taxation.

The greatest practical problem which arises in connection with the management of the State finances has to do with the raising of the revenue, that is, the supplying of the treasury and its different funds with the money necessary to pay the expenses incurred by the government. This problem resolves itself into two questions — first, how much money shall be raised? and second, from what sources shall this money be derived? The answer to the first question is based upon what is sometimes called the "budget," which in this State takes the form of the comptroller's list of "estimated appropriations required for the expenses of the government." These estimates are usually determined by the expenses of the previous year, with the changes which in the judgment of the comptroller seem desirable. The second question, as to how this required amount of money is to be raised, and from what sources it is to be derived, is a more

serious problem. Some of this money may be obtained from funds already in the hands of the State; but the larger part of it must be obtained from the people in the form of taxes. If every person could measure precisely the amount of benefit he derives from the government, a tax might be looked upon simply as a payment for benefits received. But as no one can measure the real benefits he receives by being a member of the State, a tax must be regarded as something besides a mere compensation for services rendered. It must rather be looked upon as a contribution made by the people for carrying on the work of government and for insuring their rights and privileges as citizens. The tax is based not so much upon the specific benefit received by each person as upon the general ability of every one to contribute to the work of the State and to provide for its general welfare.

Revenues derived from State incomes.

In reviewing the various sources from which the State of New York actually derives its revenues, we will see that some of these revenues are obtained from sources other than taxation — from what we may call "State incomes." For example, the State has in its possession certain invested funds from which it draws interest. These are permanent sources of revenue. It may also occasionally raise money by means of loans, without at the time imposing taxes upon the people. Moreover, it may receive money from the sale of its public lands, or even from gifts, like those which have been granted to it by the United States Government.

General or ect taxes.

But the largest part of State revenues must be derived from taxes assessed upon the people. Some

of these are *general* taxes, that is, imposed directly upon all the people. All the members of the State are called upon, according to their ability, to do something to maintain the government and to assist in carrying on its work. The general ability of the people to contribute to the expenses of the State is estimated by the amount of property which they possess. This may be in the form of real property, that is, land and the permanent attachments to land, like buildings; or it may be in the form of personal property, such as money, carriages, stocks, and mortgages, and whatever else can be carried with the person. It is comparatively easy to ascertain the value of one's real property, but much more difficult to discover that of his personal property, because the latter can more easily be concealed. Hence, as a matter of fact, the greater part of the general tax is laid upon real property.

Special or indirect taxes.

Of the revenues raised by taxation the largest share is obtained from *special*, or what are sometimes called indirect, taxes, — that is, taxes laid, not upon the whole community, but upon special persons or classes of persons who for certain reasons are called upon to make special contributions to the government. These taxes include the fees paid to public officers and public institutions for services rendered; excise taxes, such as licenses given to certain kinds of business, and especially the tax laid upon the sale of liquors; also the inheritance tax, laid upon estates of deceased persons, when the persons benefited are not closely related to or immediately dependent upon the deceased. But a considerable amount of these special taxes is laid upon stock corporations. There is, for

example, a tax laid for the right of organizing such a corporation; a tax laid upon the annual income of some corporations, which include insurance companies, railroads, and other transportation companies, telegraph and telephone companies, and many other business corporations; also assessments laid upon corporations to pay the expenses of those State commissioners under whose supervision these corporations carry on their business. There are, moreover, some other special sources of revenue, such as fines, etc., which need not be specified. More than half of the revenue of the State is derived from these special taxes. The government has of late years received annually from fees nearly a million of dollars; from the inheritance tax more than four millions; from the excise tax also more than four millions; and from corporations more than five millions.[1]

83. General Taxes. Assessment and Equalization

Taxable property.

The people are usually more interested in the general taxes than in any other, because these fall upon practically all the owners of property throughout the State. The general tax law declares that "all real property within this State, and all personal property situated or owned within this State, is taxable unless exempt from taxation by law."[2] All property, therefore, of whatever description, is subject to taxation, unless it is specially exempted by law. It is possible in a brief statement to indicate only in a general way the kind of property exempt from

[1] For the various sources of revenue, see Appendix E, § 105.

[2] *General Laws of New York*, ch. 24, § 3.

taxation. Public property, whether of the United States, of the State, or of a municipal corporation, is for the most part exempt. The real and personal property of a corporation or association organized exclusively for religious, charitable, educational, or scientific purposes is also exempt; but the real property of such corporations must be actually occupied and used for the purposes specified. The following property is also exempt: the parsonages of religious denominations up to $2000, and the property of clergymen up to $1500; also the exhibition grounds of an agricultural society; bank deposits due to depositors, and the money held by insurance companies for the benefit of the insured.[1] The general tax is based upon the valuation of all the taxable property of the State; and every dollar of such property should bear its proportionate share of this tax.

The tax district and the assessors.

The business of fixing the value of taxable property and of determining what is exempt from taxation is put into the hands of the board of assessors in each "tax district." The tax district is defined to be "the political subdivision of the State having a board of assessors authorized by law to assess the property therein for State and county taxes."[2] The duty of the assessors in each district is to ascertain by diligent inquiry all the property and the names of all persons taxable in the district.

The assessment roll.

The chief work of the assessor is to prepare the "assessment roll." This is a list containing the names of all taxable persons in the district, the amount of real property taxable to each, the full value of

[1] For property exempt from taxation, see *General Laws*, ch. 24, § 4.

[2] *General Laws of New York*, ch. 24, § 2.

such property, and also the full value of all the taxable personal property owned by each person. As the personal property may be in the form of bank-stocks, every bank must furnish to the assessors the names of all the stockholders, with the number of shares held by each. The assessment roll must also contain the names of all corporations in the district liable to taxation, and the amount of taxable property belonging to each. The assessment roll when completed is published, and an opportunity is given to hear complaints for the purpose of correcting and verifying it.[1]

County board of equalization.

As there may be a disposition on the part of some assessors to undervalue the property of their own districts and thus to avoid their share of the general tax, the assessment roll is sent to the county board of supervisors for review and "equalization." The board of supervisors thus acts as a county board of equalization, to see that the property of the several districts is fairly assessed, and that no district is given an unfair advantage over another. The board has the power to make such changes as seem necessary to produce a just relation between the valuations of real estate in the county.[2]

State board of equalization.

The State government exercises a supervision over the assessments and equalization in two ways. In the first place, the State board of tax commissioners (consisting of three members appointed by the governor and senate for three years) examines and directs the methods employed by assessors in the various districts. In the next place the tax commissioners, with

[1] For mode of assessment, see *General Laws*, ch. 24, Art. II.

[2] For mode of equalization, see *General Laws*, ch. 24, Art. III.

the commissioners of the land office, constitute a State board of equalization, to examine and revise the valuation of real and personal property in the several counties, in order to insure a just relation between the valuations in the entire State. From the assessments thus made by the district assessors and thus reviewed by the county boards and the State board, the comptroller makes an estimate of the proportion of the general tax which each county shall pay to the State.

84. The Levying and Collecting of Taxes

The State tax.

The taxes necessary to pay the State expenses are levied by the State legislature. The expenses of the State, as we have seen, are paid from three sources, the State incomes, the general tax, and the special taxes. After deducting what may be expected from the State incomes and from the special taxes — such as fees, licenses, the corporation tax, etc. — there is left the amount to be raised by general taxation. This amount is levied upon the various counties in proportion to the value of the taxable property in each county. The tax thus levied upon the counties for State purposes is called the general State tax.

The county tax.

But in addition to the State tax which the counties must raise for the payment of the State expenses, each county has also expenses of its own which must be paid. In directing our special attention thus far to the finances of the State, we have not considered the finances of the county. But it must be remembered that the county has its own work to perform and its own government to support. It must construct its jails and courthouses, care for its indigent

poor, maintain the county roads, and pay for the services performed by its judges and other officers. The tax necessary to pay the expenses of the county is levied upon the towns and cities of the county by the board of supervisors. This tax is added to the State tax levied upon the county, and both together constitute the county tax, which must be raised by the towns and cities and paid to the county treasurer.

The town tax.

In a similar manner the town has expenses of its own which must be paid; and the levy of the tax necessary to meet these expenses is made by the town-meeting. This tax is added to the county tax levied upon the town, which together constitute the town tax. In this way the tax levied upon the town comprises what is required to pay (1) its own expenses, (2) its share of the county expenses, and (3) its share of the State expenses.

The village and city tax.

There is also a village tax. In addition to the duty to pay its share of the town tax, the village is authorized to raise a separate tax to meet the special expenses of the village, which tax is levied by the village board of trustees. So also the city, in addition to its duty to contribute to the county tax, is authorized to raise a separate tax for its own special needs. The tax levy, in the case of cities of the second class, is imposed by the common council, and based upon the estimate made by the board of estimates and appropriations. In the case of the city of New York, the tax is levied by the board of aldermen, and based upon estimates furnished by the city comptroller and the board of estimates and apportionment.

Collection of

Every tax-roll when duly verified is placed in the hands of a collector who is authorized by warrant

—that is, by an official order from the county board—to collect from the several persons mentioned in the roll the amount of money placed opposite their names. When the collector has received the tax-roll, he publishes a notice to that effect, and gives an opportunity to all persons to call upon him and pay their taxes. At the end of a month, the collector must call upon any person who has not paid his tax and demand its payment. If the person should refuse to pay the tax imposed upon him, the collector must levy upon the personal property of such person and cause the property to be sold at public auction for the payment of the tax and the expenses of its collection. The law also provides a method whereby lands may be sold if necessary for the payment of the taxes imposed upon them.[1]

Distribution of taxes.

When the taxes have been collected they must be distributed according to the purposes for which they are raised. The collector of the tax district is directed by law to pay the moneys which he shall have raised as follows: (1) to the commissioners of highways of the town such sum as shall have been raised for the support of highways and bridges therein; (2) to the overseers of the poor of the town such sum as shall have been levied to be expended by such overseers for the support of the poor therein; (3) to the supervisor of the town, all the moneys levied therein, to defray any other town expenses or charges; (4) to the treasurer of the county, the residue of the money

[1] *General Laws of New York*, ch. 24, "The Tax Law," Art. VI., "Sale by comptrollers for unpaid taxes and redemption of lands," Art. VII., "Sale by county treasurer for unpaid taxes and redemption of lands."

which has been collected.[1] The county treasurer, after retaining the money raised to meet the expenses of the county, pays the remainder to the State treasurer, to be used to meet the expenses of the State. In the way thus briefly outlined, the money which is collected from the people finds its way into the hands of the several officers who are authorized to expend it.

Restraint upon taxation.

To put a restraint upon excessive taxation in counties and cities the constitution makes a special provision. A county containing a city of over 100,000, and any such city in the State, may not impose in any year a tax which exceeds two per cent. of the valuation of the real and personal property of the county or city. This does not, however, include a tax necessary to provide for the payment or reduction of any existing debt.[2]

85. Control of Public Expenditures

Constitutional restrictions.

The proper management of the finances requires not only the adoption of methods by which money can be raised, but also the adoption of methods by which its expenditure can be controlled. The people have provided in the constitution that public moneys shall not be used except for public purposes. The State is forbidden to give or lease its money for the aid of any individual, association, or corporation. The constitution also provides that "no county, city, town, or village shall give any money or property, or loan its money or credit to or in aid of any individual,

[1] *General Laws of New York*, ch. 24, § 56.

[2] *Constitution of New York*, Art. VIII. § 10.

association, or corporation."[1] These restrictions thus cut off one means of squandering the public revenues, and prevent the use of the public money for private gain.

Legislative appropriations.

Again, no public money may be expended except in accordance with appropriations made by the people or their representatives. Such appropriations are legislative enactments which authorize the payment of money from the public treasury, and without such an authorization no money may leave the treasury. Whether the expenditures are to be made by the State, or by any municipal corporation, they may by this means be kept under the control of the people.

The comptroller's warrant.

But even after the appropriations have been made, the money may not be paid from the State treasury except on a warrant, or order, from the State comptroller; and such warrants must indicate the legal authority upon which the money is paid. And the various municipal corporations have either comptrollers, or similar officers, who are compelled in a similar way to keep the expenditures within the limits of the law.

Accounts and reports.

Finally, the State compels every officer having in charge the public money to keep accurate accounts of the receipts and expenditures of the year, and to hold the proper receipts and other vouchers by which the accuracy of such accounts may be determined. These accounts are audited by the comptroller, or other officer, who must certify as to their correctness. Every financial officer must also make a public report of the business of his office, so that

[1] *Constitution of New York*, Art. VIII. § 10.

the people may know precisely the way in which their money is expended.

86. Public Debts

Limits of State indebtedness.

States, like individuals, when they are hard pressed for money, are tempted to run into debt. If it were as easy to get out of debt as it is to get into it, there would be no need of placing a limit upon indebtedness. But a standing public debt, like a standing private debt, is not an indication of the highest financial prosperity, and may be the source of great embarrassments. There may, it is true, be great emergencies, such as those which arise in times of war or commercial distress, when it is necessary to borrow money; but the incurring of debt in the ordinary affairs of business, with no knowledge as to how the debt is to be paid, is an evidence of financial mismanagement. The State constitution, therefore, places a limit upon the ordinary indebtedness of the government. To pay the current expenses of the government it is not permitted to incur an indebtedness to exceed $1,000,000. To repel an invasion, to suppress an insurrection, or to defend the State in time of war, it is permitted to contract extraordinary debts; but the money so raised may not be used for any other purpose. In any other case, the constitution prohibits the contracting of a debt, unless it is authorized by a special law, stating its special purpose and approved by the people at a general election.[1]

Limits of municipal indebtedness.

More specific limitations are placed upon municipal corporations. No county containing a city of more

[1] *Constitution of New York*, Art. VII. §§ 2, 3.

than 100,000 inhabitants, nor any such city may, in addition to its present indebtedness, contract any debt to exceed five per cent. of the valuation of its real property.[1] The total indebtedness of such county or city may not exceed ten per cent. of such valuation. An exception to this is made if it is necessary to borrow money to provide for a water supply; but in this case provision must be made for paying such loan within twenty years.[2]

Sinking funds.

For the extinguishment of an existing debt it is customary, and in some cases obligatory, to provide a sinking fund — that is, a fund set apart for the express purpose of paying the interest and reducing the principal of a debt. The State constitution provides that the sinking funds of the State shall be kept separate, and shall not be used for any other purpose than the one specified.[3] By this means the State seeks to prevent the possibility of a standing debt.

The present State debt.

The most important debt of the State of New York is at present the canal debt, which has been incurred for the construction and maintenance of the Erie Canal and its tributaries. This debt amounts to about eight and a half millions of dollars. The other debts of the State are the Adirondack Park debt of $275,000, incurred for the purchase of lands in that region; and the National Guard debt of $[illegible], incurred for the public defence. The total debts of the State amount to something more than ten millions of dollars. But suitable means have been provided for the gradual reduction of this indebtedness. It is

[1] *General Laws of New York*, ch. 17, § 2.
[2] *Constitution of New York*, Art. VIII. § 10.
[3] *Ibid.*, Art. VII. § 5.

to the great credit of the State of New York that it has performed its vast administrative work for so many years, and its present indebtedness is less than one half of its annual revenue.

Conclusion.

From this general review of the growth, the structure, and the work of our State government, we may see how our political institutions have been gradually developed to meet the needs of a growing commonwealth. We may see how it has become organized with its various branches and its multitude of officers, in order to carry out the will of the people. We may also see, from the various kinds of administrative work which it performs, how it preserves and promotes our common freedom and our common welfare. It is evident that this common freedom and common welfare cannot be attained by the isolated and desultory acts of individuals. They can be fully attained only by the organized efforts of the whole community, that is, by the proper exercise of governmental authority. We must be convinced that government, when properly organized and administered, is not a "necessary evil," as some would have us believe, but is one of the most important and essential conditions of a prosperous society; that it should be maintained as a sacred institution, kept free from corruption, and upheld by all good and patriotic men who prize the privileges and respect the duties of citizenship.

APPENDIX A

CHRONOLOGICAL TABLES

87. Important Historical Events

(1) The Dutch Period

1609. Discovery of the Hudson River by Henry Hudson.
1613. Occupation of Manhattan Island as a trading-post.
1614. Charter granted to New Amsterdam Company.
1621. Charter granted to Dutch West India Company.
1623. First settlements at Fort Orange (Albany) and on Long Island.
1624. Cornelius Jacobzen Mey appointed director.
1625. William Verhulst succeeds Mey.
1626. Peter Minuit appointed director general — usually reckoned first in the list of governors. Colonial government organized. Purchase of Manhattan Island.
1629. Charter of "Freedoms and Exemptions," in favor of patroons.
1630. Patroonships established — Rensselaerwick, Swaanendael, Pavonia.
1633. Walter (Wouter) Van Twiller appointed director.
1635. Surrender of Swaanendael to the Company. English from Massachusetts settle on Connecticut River.
1637. Pavonia purchased by the Company.
1638. William Kieft appointed director. Swedes plant a colony on the Delaware.
1640. New Charter of Freedoms, encouraging towns.
1641. First popular assembly called. The "Twelve Men."
1642. Mespath (Newtown) settled from Massachusetts and incorporated.
1643. Second popular assembly. The "Eight Men."

1644. Complaint of the "Eight Men" to the Company. Heemstede (Hempstead) settled from Connecticut and incorporated.

1645. Vlissingen (Flushing) and Gravensande settled and incorporated.

1646. Breucklen (Brooklyn) partly incorporated, with two schepens and a schout subject to the schout-fiscaal at Manhattan.

1647. Peter Stuyvesant appointed director. Council of "Nine Men" selected from eighteen nominated by the people.

1653. Assembly meets, remonstrates, and is dissolved. New Amsterdam incorporated with a schout, two burgomasters and five schepens. Beverwick (Albany) partly incorporated.

1654. Breucklen fully incorporated — also Amersfort (Flatlands) and Midwout (Flatbush).

1655. New Sweden conquered by the Dutch.

1656. Governor's proclamation to form villages. Rustdorp (Jamaica) incorporated.

1661. New Haerlem incorporated. New Utrecht and Boswick (Bushwick) incorporated, which with Breucklen, Amersfort, and Midwout, became known as the "Five Dutch Towns" under a single schout.

1664. General provincial assembly. Surrender of New Netherland to the Dutch.

(2) The English Period

1664. English take possession of New York under Richard Nicolls, lieutenant of James, Duke of York. Eastern Long Island joined to New York.

1665. Meeting at Hempstead, "Duke's Laws" promulgated. Conveyance of New Jersey to Berkeley and Carteret.

1668. Francis Lovelace appointed governor.

1673. Dutch regain the province.

1674. New York restored to the English. Edmund Andros appointed governor.

1675. Popular assemblies disapproved by the Duke.

1683. Thomas Dongan appointed governor. First New York Assembly. "Charter of Liberties." Erection of coun-

ties. New York incorporated as a city, and divided into six wards.

1685. James, Duke of York, becomes king of England, and New York becomes a royal province.

1686. "Charter of Liberties" repealed by James. Assembly abolished. English Church established. Albany incorporated as a city.

1688. New York consolidated with New England, under Andros as Viceroy with Francis Nicholson as lieutenant governor of New York. James abdicates, and William III becomes king of England.

1689. Leisler's rebellion. French invasion.

1689–1697. King William's War against the French.

1690. First congress of the colonies called by Leisler at New York City.

1691. Arrival of William Sloughter as governor. Meeting of assembly which reasserts the "Charter of Liberties." Trial and execution of Leisler.

1697. King William rejects the "Charter of Liberties."

1702. Anne becomes queen of England.

1702–1713. Queen Anne's War, against the French.

1735. Trial and acquittal of Zenger on charge of libelling the governor.

1749. Forts erected on the French frontier at Albany, Schenectady, and Oswego.

1754–1763. French and Indian War.

1754. Congress of the colonies at Albany. Franklin's plan of union.

1764. The Stamp Act. New York appoints a "committee of correspondence."

1765. Stamp Act Congress at New York. "Non importation agreement."

1766. Repeal of the Stamp Act.

1767. New York forbidden to exercise legislative power.

1771. William Tryon appointed royal governor.

1774. "Meeting of the Fields"; Hamilton's first speech.

1775. "Provincial Congress" takes the place of the "Colonial Assembly."

1776. New York approves the Declaration of Independence.

(3) The Constitutional Period

1776. First constitutional convention called. New York the seat of the war.
1777. First State constitution adopted. George Clinton first governor.
1778. First general act giving power to county supervisors.
1779. Sullivan's Campaign.
1780. Arnold's treason at West Point.
1783. Treaty with England. November 25, "Evacuation Day."
1786. Cession of western New York to Massachusetts.
1788. New York adopts the Federal Constitution. Phelps and Gorham purchase.
1789. First Congress of the United States under the Constitution assembles in New York City. Inauguration of Washington.
1791. First State bank chartered.
1801. Constitutional convention. "Council of appointment" abolished.
1804. Alexander Hamilton killed by Aaron Burr.
1812–1814. Second war with England.
1817. DeWitt Clinton elected governor.
1821. Adoption of the second State constitution.
1823. Rise of the "Albany Regency."
1825. Completion of the Erie Canal.
1826. Abduction of Morgan. The "Anti-Masonic movement."
1827. Abolition of slavery in the State.
1832. William L. Marcy elected governor. "U. S. Deposit Fund" established.
1838. Passage of the free banking law.
1839–1846. Anti-rent troubles. "Hunkers" and "Barnburners."
1846. Adoption of the third constitution of the State.
1848. Adoption of the Code of Civil Procedure. First free-soil convention at Buffalo.
1853. Crystal palace exhibition in New York City.
1860. Re-election of Edwin D. Morgan, "war governor."
1861. New York supports the Union. Seventh Regiment sent to Washington.
1863. Draft riots. Formation of the Union League Club.

1865. Return of the New York regiments. New York furnished for the Civil War 473,443 men.
1867. Rejection of the revised constitution.
1869. New York adopts the Fifteenth Amendment. September 24, "Black Friday."
1871. Overthrow of the Tweed ring.
1873. Local option law passed.
1883. "Free Canals." First civil service law passed.
1890. Ballot reform law.
1894. Adoption of the revised constitution. Lexow investigation.
1895. Purchase of the Adirondack Park.
1896. Raines liquor law passed. Abolition of excise boards.
1897. Consolidation of Greater New York.
1899. Taxation of public franchises.
1901. Revision of the charter of New York City.
1902. Abolition of boards of managers in State hospitals.

88. Governors of New York, with Dates of their Accession

[See *Legislative Manual, 1902*, pp. 368–370.]

1. Colonial Governors

[These officers served under various titles, as Directors, Governors, Lieutenant Governors, Commanders-in-Chief, etc.]

Adrian Joris	1623	Edmund Andros	1674
Cornelius Jacobzen Mey	1624	Anthony Brockholles	1677
William Verhulst	1625	Sir Edmond Andros	1678
Peter Minuit	1626	Anthony Brockholles	1681
Wouter Van Twiller	1633	Thomas Dongan	1683
William Kieft	1638	Sir Edmond Andros	1688
Peter Stuyvesant	1647	Francis Nicholson	1688
Richard Nicolls	1664	Jacob Leisler	1689
Francis Lovelace	1668	Henry Sloughter	1691
Cornelis Evertse, Jr.	1673	Richard Ingoldesby	1691
Anthony Colve	1673	Benjamin Fletcher	1692

COLONIAL GOVERNORS (*Continued*)

Earl of Bellomont	1698	George Clarke	1736
John Nanfan	1699	George Clinton	1743
Earl of Bellomont	1700	Sir Danvers Osborne	1753
Col. William Smith	1701	James DeLancey	1755
Col. Abraham De Peyster	1701	Sir Charles Hardy	1755
Col. Peter Schuyler	1701	James DeLancey	1757
John Nanfan	1701	Cadwallader Colden	1760
Lord Cornbury	1702	Robert Monckton	1761
Lord Lovelace	1708	Cadwallader Colden	1761
Peter Schuyler	1709	Robert Monckton	1762
Richard Ingoldesby	1709	Cadwallader Colden	1763
Peter Schuyler	1709	Sir Henry Moore	1765
Richard Ingoldesby	1709	Cadwallader Colden	1769
Gerardus Beekman	1710	Earl of Dunmore	1770
Robert Hunter	1710	William Tryon	1771
Peter Schuyler	1719	Cadwallader Colden	1774
William Burnet	1720	William Tryon	1775
John Montgomerie	1728	James Robertson	1780
Rip Van Dam	1731	Andrew Elliott	1783
William Cosby	1732	Peter V. B. Livingston	1775

2. PROVINCIAL CONGRESS

[The following officers were generally Presidents or Presidents *pro tem.* of the Provincial Congress.]

Nathaniel Woodhull	1775	Abraham Yates, Jr.	1776
Abraham Yates, Jr.	1775	Peter R. Livingston	1776
Nathaniel Woodhull	1775	Abraham Ten Broeck	1777
John Haring	1775	Leonard Gansvoort	1777
Abraham Yates, Jr.	1776	Pierre Van Cortlandt[1]	1777

3. STATE GOVERNORS

[The political parties to which the different State governors belonged are indicated as follows: *D.R.*, Democratic Republican; *F.*, Federal; *W.*, Whig; *D.*, Democratic; *R.*, Republican.

George Clinton, *D.R.*	1777	Morgan Lewis, *D.R.*	1804
John Jay, *F.*	1795	Daniel D. Thompkins, *D.R.*	1807
George Clinton, *D.R.*	1801		

[1] President of the Council of Safety.

STATE GOVERNORS (*Continued*)

John Taylor,[1] *D.R.*	1817	Edwin D. Morgan, *R.*	1858
DeWitt Clinton, *D.R.*	1817	Horatio Seymour, *D.*	1862
Joseph C. Yates, *D.R.*	1822	Reuben E. Fenton, *R.*	1864
DeWitt Clinton, *D.R.*	1824	John T. Hoffman, *D.*	1868
Nathaniel Pitcher,[1] *D.R.*	1828	John A. Dix, *R.*	1872
Martin Van Buren,[2] *D.R.*	1828	Samuel J. Tilden, *D.*	1874
Enos F. Throop, *D.R.*	1829	Lucius Robinson, *D.*	1876
William S. Marcy, *D.R.*	1832	Alonzo B. Cornell, *R.*	1879
William H. Seward, *W.*	1838	Grover Cleveland,[3] *D.*	1882
William C. Bouck, *D.*	1842	David B. Hill, *D.*	1885
Silas Wright, *D.*	1844	Roswell P. Flower, *D.*	1891
John Young, *W.*	1846	Levi P. Morton, *R.*	1894
Hamilton Fish, *W.*	1848	Frank S. Black, *R.*	1896
Washington Hunt, *W.*	1850	Theodore Roosevelt, *R.*	1898
Horatio Seymour, *D.*	1852	Benjamin B. Odell, Jr., *R.*	1900
Myron H. Clark, *W.*	1854		
John A. King, *R.*	1856		

[1] Acting governor. [2] Resigned, March 12, 1829.
[3] Resigned, January 6, 1885.

APPENDIX B

SELECT HISTORICAL DOCUMENTS (EXCERPTS)

89. Charter to the Dutch West India Co., 1621

[The full text of this Charter will be found in O'Callaghan, *History of New Netherland*, I. p. 399.]

A Charter given by the High and Mighty Lords, the States General, to the West India Company, dated the 3d of June, 1621:—

Purpose of the charter.

The States General of the United Netherlands, to all who shall see these presents or hear them read, greetings: Be it known, that We, knowing that the prosperity of these countries, and the welfare of their inhabitants, depend principally on navigation and trade, which in all former times by the said countries were carried on happily and with great blessing to all countries and kingdoms; . . . and We find by experience, that without the common help, assistance, and interposition of a General Company, the people designed from hence for those parts, cannot be properly protected and maintained in their great risk from pirates, extortion, and otherwise, which will happen in so long a voyage: We have, therefore . . . found it good, that the navigation, trade and commerce in the . . . places hereafter described shall not be carried on any otherwise than by the common united strength of the merchants and inhabitants of these countries and for that end there shall be enacted one General Company, which We . . . will maintain . . . and, moreover, furnish them with a proper charter, and with the following privileges and exemptions, to wit:

Monopoly granted.

I. That for the term of four and twenty years none of the natives or inhabitants of these countries shall be permitted to sail to or from the said lands, or to traffic on the coast and countries of Africa . . . nor in the countries of America, or the West Indies . . . but in the name of this United Company of these United Netherlands. . . .

II. That, moreover, the aforesaid company may in Our name and authority, within the limits herein before described, make contracts, engagements, and alliances within the province and with the natives of the countries comprehended therein, and also build any forts and fortifications there, to appoint and discharge governors, people for war, and officers of justice, and other public officers, for the preservation of the places, keeping good order, police and justice, and in like manner for the promoting of trade. . . . Corporate powers.

III. Saving, that they having chosen a governor-in-chief, and prepared instruction for him, they shall be approved and a commission given by Us; and that further, such governor-in-chief, as well as other deputy governors, commanders, and officers, shall be held to take the oath of allegiance to Us, and to the company. . . . Supremacy of the States General.

[The rest of the charter contains regulations for the management of the company and the direction of its business.]

90. Charter of Freedoms and Exemptions, 1629

[The text of this Charter will be found in O'Callaghan, *History of New Netherland*, I. 112; *New York Historical Society Collections*, New Series, I. 370; Dunlop, *History of New York*, II. App. H.]

Freedoms and Exemptions, granted by the Assembly of XIX of the Privileged West India Company, to all such as shall plant Colonies in New Netherland: —

Such members of said company as may be inclined to settle any colonie in New Netherland, shall be permitted to send in the ships of this company going thither, three or four persons to inspect the situation of the country . . . All such shall be acknowledged Patroons of New Netherland who shall within the space of four years next after they have given notice . . . undertake to plant a colonie there of fifty souls, upwards of fifteen years old: . . . but it is to be observed that the company reserve the island of Manhattes to themselves. . . . Patroons.

The Patroons, by virtue of their power, shall and may be permitted, at such places as they shall settle their colonies, to extend their limits four miles [sixteen English miles] along the shore, that is, on one side of a navigable river, or two miles [eight English miles] on each shore of a river, and so far into the country as the situation of the occupiers will permit. . . . Extent of patroonships.

Privileges of patroons.

They shall forever possess and enjoy all the lands lying within the aforesaid limits, together with the fruits, rights, rivers, minerals and fountains thereof: and also the chief command and lower jurisdictions, fishing, fowling, and grinding, to the exclusion of all others to be holden from the company as a perpetual inheritance . . . and in case any one should in time prosper so much as to found one or more cities, he shall have power and authority to establish officers and offices there, and to make use of the title of his colonie, according to his pleasure and to the quality of the persons. . . .

Rights of colonists.

The company promises the colonists of the Patroons, that they shall be free from customs, taxes, excise, imposts, or any other contributions, for the space of ten years; and after the expiration of the said ten years at the highest, such customs as the goods are taxable with here for the present. . . .

Restrictions upon colonists.

And all such colonists as shall leave the service of his Patroon, and enter into the service of another, or shall, contrary to his contract, leave his service: we promise to do every thing in our power to apprehend and deliver the same into the hands of his Patroon, or attorney, that he may be proceeded against, according to the customs of this country, as occasion may require.

Appeal to the governor and council.

For all judgments given by the courts of the Patroons for upwards of fifty guilders [$20] there may be an appeal to the company's commander and council in New Netherland . . .

Minister and schoolmaster.

The Patroon and colonists shall in particular, and in the speediest manner, endeavor to find out ways and means whereby they may support a minister and schoolmaster, that thus the service of God and zeal for religion may not grow cool, and be neglected among them, — and that they do, for the first, procure a comforter for the sick there. . . .

Defence.

The company promises to finish the fort on the island of the Manhattes, and to put it in a position of defence without delay.

91. Patent to the Duke of York, 1664

[For text see Brodhead, *History of New York*, II., App. note A; O'Callaghan, *Documents relative to the Colonial History of New York*, II. 295. The original patent is in the State Library at Albany.]

Charles the Second by the Grace of God, King of England, Scotland, France and Ireland, Defender of the Faith, &c. To

all to whom these presents shall come. Greeting: Know ye that we for divers good Causes and Considerations . . . do give and grant unto our Dearest Brother James Duke of York his Heirs and Assigns all that part of the main Land containing the lands in Maine, Long Island, Martha's Vineyard and Nantucket and the lands between the Connecticut and Delaware River. And the said James Duke of York doth for himself his Heirs and Assigns covenant and promise to yield and render unto us our Heirs and successors of and for the same yearly and every year forty Beaver skins when they shall be demanded or within ninety days after.

Agreement of James as proprietor.

And we do further . . . give and grant unto our said Dearest Brother James Duke of York . . . full and absolute power and authority to correct, punish, pardon, govern, and rule all such the subjects of Our Heirs and Successors who may from time to time adventure themselves into any of the parts or places aforesaid . . . according to such Laws, Orders, Ordinances, Directions and Instruments as by our said Dearest Brother or his Assigns shall be established . . . So also as the said Statutes, Ordinances and proceedings be not contrary to but as near as conveniently may be agreeable to the Laws, Statutes, and Government of this Our Realm of England. . . .

Political authority.

And further that it may be lawful to and for our Dearest Brother his Heirs and Assigns by these present from time to time to nominate, make, constitute, ordain and confirm by such name or names, stile or stiles, as to him or them shall seem good, and likewise to make, discharge, change and alter as well, all and singular Governors, Officers and Ministers which hereafter shall be by him or them thought fit and needful to be made or used within the aforesaid parts or Islands. . . .

Power to appoint officers.

And also to make, ordain and establish all manner of Orders, Laws, directions, instructions, forms and Ceremonies of Government and Magistracy fit and necessary for and Concerning the Government and territories and Islands aforesaid, so alway as the same be not contrary to the laws and statutes of this Our Realm of England but as near as may be agreeable thereunto . . .

Power to make laws.

Witness Ourself at Westminster the *twelfth* day of March in the *Sixteenth* year of Our Reign [1664].

By the King, HOWARD.

92. Charter of Liberties and Privileges, 1683

[See Brodhead, II. p. 659-661; *Revised Laws of New York, 1813*, II., App. 3-6; O'Callaghan, '*Documents relative to the Colonial History of New York*, III. 357-359.]

Preamble. *For the better establishing the Government of this province of New York, and that Justice and Right may be equally done to all persons within the same: Be it enacted by the Governour, Council and Representatives now in general assembly, met and assembled, and by the authority of the same,*

Supreme authority. That the Supreme legislative authority under his Majesty and Royal Highness James, Duke of York, Albany, &c., Lord proprietor of the said province, shall forever be and reside in a Governour, council and the people, met in a General assembly.

Chief magistracy. That the Exercise of the Chief magistracy and administration of the government over the said Province, shall be in the said Governour; assisted by Council, with whose advice and consent, or with at least four of them, he is to rule and govern the same according to the laws thereof. . . .

Sessions of assembly. That according to the usage, custom and practice of the Realm of England a session of a general assembly be held in this province once in three years at least.

Freedoms of elections. That every freeholder within this province, and freeman in any corporation, shall have his free choice and vote in the Electing of the representatives, without any manner of constraint or imposition, and that in all Elections the Majority of votes shall carry it, and by freeholders is understood every one who is so understood according to the laws of England.

Apportionment of representatives. That the persons to be elected to sit as representatives in the General assembly from time to time for the several Cities, Towns, Counties, Shires, or divisions of this province, and all places within the same shall be according to the proportion and number hereafter expressed — That is to say — For the city and county of New York four — For the county of Suffolk two — For Queen's county two — For King's county two — For the county of Richmond one — For the county of Westchester one — For the county of Ulster two — For the county of Albany two — And for Schenectady within the said county one — For Duke's county one — For the county of Cornwall one. . . .

That the said representatives may appoint their own times of

meeting during their sessions, and may adjourn their house, from time to time, to such time as to them shall seem meet and convenient. **Freedom of meeting.**

That the said representatives are the sole Judges of the Qualifications of their own members, and likewise of all undue elections, and may, from time to time, purge their house as they shall see occasion during the said sessions. . . . **Qualification of members.**

That no free man shall be taken and imprisoned, or be disseized of his freehold or liberty, or free customs, or be outlawed or exiled, or any other ways disturbed, nor shall be passed upon, adjudged or condemned, but by the lawful judgment of his peers, and by the law of this province; justice nor right shall be neither sold, denied, or deferred to any man within this province. **Personal rights.**

That no aid, tax, tallage, assessment, loan, benevolence, or imposition whatsoever, shall be laid, assessed, imposed or levied on any of his Majesty's subjects within this province, or their estates upon any manner of colour or pretence, but by the act and consent of the Governour, council and representatives of the people in general assembly met and assembled. . . . **No taxation without representation.**

All trials shall be by the verdict of twelve men, and as near as may be, Peers or Equals of the Neighbourhood, and in the County, Shire or Division where the fact shall arise or grow, whether the same be by Indictment, Information, Declaration, or otherwise, against the person, offender, or defendant. . . . **Trial by jury.**

That no person or persons, which profess faith in God by Jesus Christ, shall, at any time, be any ways molested, punished, disquieted, or called in question for any difference in opinion or matters of religious concernment, who do not actually disturb the civil peace of the province, but that all and every such persons may . . . at all times freely have and enjoy, his or their judgments or consciences in matters of religion throughout all the province, they behaving themselves peaceably and quietly, and not using this liberty to licentiousness nor to the civil injury or outward disturbance of others. . . . **Religious liberty.**

New York, Oct. 26, 1683.

The Representatives have assented to this bill, and order it to be sent up to the Governour and Council for their assent.

M. NICOLLS, Speaker.

After three readings, it is assented to by the Governour and Council this thirtieth of October, 1683. THO. DONGAN.

93. The Constitution of New York, 1894

[N. B. The Constitution is printed entire in the *Legislative Manual* each year, together with very full annotations.]

Preamble. WE, THE PEOPLE of the State of New York, grateful to Almighty God for our Freedom, in order to secure its blessings, DO ESTABLISH THIS CONSTITUTION.

ARTICLE I. — BILL OF RIGHTS

Disfranchisement. Section 1. No member of this State shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers.

Trial by jury. Sec. 2. The trial by jury in all cases in which it has been heretofore used, shall remain inviolate forever; but a jury trial may be waived by the parties in all civil cases in the manner to be prescribed by law.

Religious liberty. Sec. 3. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this State to all mankind; and no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

Habeas corpus. Sec. 4. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require its suspension.

Bails, fines. Sec. 5. Excessive bail shall not be required nor excessive fines imposed, nor shall cruel and unusual punishments be inflicted, nor shall witnesses be unreasonably detained.

Grand jury. Sec. 6. No person shall be held to answer for a capital or otherwise infamous crime (except in cases of impeachment, and in cases of militia when in actual service; and the land and naval forces in time of war, or which this State may keep with the consent of Congress in time of peace, and in cases of petit larceny, under the regulation of the Legislature), unless on presentment or indictment of a grand jury, and in any trial in any court whatever the party accused shall be allowed to appear and defend in

person and with counsel as in civil actions. No person shall be subject to be twice put in jeopardy for the same offence; nor shall he be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty or property without due process of law; nor shall private property be taken for public use, without just compensation.

Private property.

Sec. 7. When private property shall be taken for any public use, the compensation to be made therefor, when such compensation is not made by the State, shall be ascertained by a jury, or by not less than three commissioners appointed by a court of record, as shall be prescribed by law. . . .

Freedom of speech.

Sec. 8. Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. . . .

Right of petition.

Sec. 9. No law shall be passed abridging the right of the people peaceably to assemble and to petition the government, or any department thereof. . . .

Sec. 10. Right of property in lands — Escheats.

Sec. 11. Feudal tenures abolished.

Sec. 12. Allodial tenure.

Sec. 13. Certain leases invalid.

Sec. 14. Fines and quarter-sales abolished.

Sec. 15. Sale of lands.

Common law.

Sec. 16. Such parts of the common law, and of the acts of the Legislature of the colony of New York, as together did form the law of the said colony, on the nineteenth day of April, one thousand seven hundred and seventy-five, and the resolutions of the Congress of the said colony, and of the convention of the State of New York, in force on the twentieth day of April, one thousand seven hundred and seventy-seven, which have not since expired, or been repealed or altered; and such acts of the Legislature of this State as are now in force, shall be and continue the law of this State, subject to such alterations as the Legislature shall make concerning the same. But all such parts of the common law, and such of the said acts, or parts thereof, as are repugnant to this Constitution, are hereby abrogated.

Sec. 17. Grants of land since 1775 — Prior grants.

Sec. 18. Right of action to recover damages.

ARTICLE II. — VOTERS

Qualifications.

Section 1. Every male citizen of the age of twenty-one years who shall have been a citizen for ninety days, and an inhabitant of this State one year next preceding an election, and the last four months a resident of the county and for the last thirty days a resident of the election district in which he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people; and upon all questions which may be submitted to the vote of the people, provided that in time of war no elector in the actual military service of the State, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the Legislature shall have power to provide the manner in which and the time and place at which such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside.

Bribery.

Sec. 2. No person shall receive, accept, or offer to receive, or pay, offer or promise to pay, contribute, offer or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giving or withholding any such note, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall vote at such election. . . .

Residence.

Sec. 3. For the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his presence or absence, while employed in the service of the United States; nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse, or other asylum, or institution wholly or partly supported at public expense, or by charity; nor while confined in any public prison.

Registration.

Sec. 4. Laws shall be made for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established, and for the registration of voters; which registration

shall be completed at least ten days before each election. Such registration shall not be required for town and village elections except by express provision of law. . . .

Sec. 5. All elections by the citizens, except for such town officers as may by law be directed to be otherwise chosen, shall be by ballot, or by such other method as may be prescribed by law, provided that secrecy in voting be preserved. Election by ballot.

Sec. 6. All laws creating, regulating or affecting boards of officers charged with the duty of registering voters, or of distributing ballots at the polls to voters, or of receiving, recording or counting votes at elections, shall secure equal representation of the two political parties which, at the general election next preceding that for which such boards or officers are to serve, cast the highest and the next highest number of votes. . . . Boards of registration.

ARTICLE III.—THE LEGISLATURE

Section 1. The legislative power of this State shall be vested in the Senate and Assembly. Two houses.

Sec. 2. The Senate shall consist of fifty members, except as hereinafter provided. The senators elected in the year one thousand eight hundred and ninety-five shall hold their offices for three years, and their successors shall be chosen for two years. The Assembly shall consist of one hundred and fifty members who shall be chosen for one year. How constituted.

Sec. 3. The State shall be divided into fifty districts to be called senate districts, each of which shall choose one senator. The districts shall be numbered from one to fifty, inclusive. . . . Districts.

Sec. 4. An enumeration of the inhabitants of the State shall be taken under the direction of the Secretary of State, during the months of May and June, in the year one thousand nine hundred and five, and in the same months every tenth year thereafter; and the said districts shall be so altered by the Legislature at the first regular session after the return of every enumeration, that each senate district shall contain as nearly as may be an equal number of inhabitants, excluding aliens, and be in as compact form as practicable, and shall remain unaltered until the return of another enumeration, and shall at all times, consist of contiguous territory, and no county shall be divided in the for- Alteration.

mation of a senate district except to make two or more senate districts wholly in such county. . . .

Apportionment of members.

Sec. 5. The members of the Assembly shall be chosen by single districts, and shall be apportioned by the Legislature at the first regular session after the return of every enumeration among the several counties of the State, as nearly as may be according to the number of their respective inhabitants, excluding aliens. Every county heretofore established and separately organized, except the county of Hamilton, shall always be entitled to one member of assembly, and no county shall hereafter be erected unless its population shall entitle it to a member. . . .

Sec. 6. Pay of members.

Sec. 7. No member to receive an appointment.

Sec. 8. Persons disqualified from being members.

Time of election.

Sec. 9. The elections of senators and members of assembly, pursuant to the provisions of this Constitution, shall be held on the Tuesday succeeding the first Monday of November, unless otherwise directed by the Legislature.

Rules of each house.

Sec. 10. A majority of each house shall constitute a quorum to do business. Each house shall determine the rules of its own proceedings, and be the judge of the elections, returns and qualifications of its own members; shall choose its own officers; and the Senate shall choose a temporary president to preside in case of the absence or impeachment of the Lieutenant-Governor, or when he shall refuse to act as president, or shall act as Governor.

Sec. 11. Journals to be kept.

Sec. 12. No member to be questioned, etc.

Sec. 13. Bills may originate in either house.

Sec. 14. Enacting clause of bills.

Sec. 15. Assent of a majority of all the members required, etc.

Sec. 16. Restriction as to private and local bills.

Sec. 17. Existing law not to be made a part of an act except by inserting it therein.

Private and local bills.

Sec. 18. The Legislature shall not pass a private or local bill in any of the following cases:

Changing the names of persons.

Laying out, opening, altering, working or discontinuing roads, highways or alleys, or for draining swamps or other low lands.

Locating or changing county seats.

Providing for changes of venue in civil or criminal cases.

Incorporating villages.

Providing for election of members of boards of supervisors.

Selecting, drawing, summoning or impanelling grand or petit jurors.

Regulating the rate of interest on money.

The opening and conducting of elections or designating places of voting.

Creating, increasing or decreasing fees, percentage or allowances of public officers, during the term for which said officers are elected or appointed.

Granting to any corporation, association or individual the right to lay down railroad tracks.

Granting to any private corporation, association or individual any exclusive privilege, immunity or franchise whatever.

The Legislature shall pass general laws providing for the cases enumerated in this section, and for all other cases which in its judgment may be provided for by general laws. . . .

Sec. 19. The Legislature not to audit or to allow any private claim.

Two-thirds vote.

Sec. 20. The assent of two-thirds of the members elected to each branch of the Legislature shall be requisite to every bill appropriating the public moneys or property for local or private purposes.

Appropriations.

Sec. 21. No money shall ever be paid out of the treasury of this State, or any of its funds, or any of the funds under its management, except in pursuance of an appropriation by law; nor unless such payment be made within two years next after the passage of such appropriation act; and every such law making a new appropriation, or continuing or reviving an appropriation, shall distinctly specify the sum appropriated, and the object to which it is to be applied; and it shall not be sufficient for such law to refer to any other law to fix such sum.

Extraneous provisions.

Sec. 22. No provision or enactment shall be embraced in the annual appropriation or supply bill, unless it relates specifically to some particular appropriation in the bill; and any such provision or enactment shall be limited in its operation to such appropriation.

Sec. 23. Sections seventeen and eighteen not to apply to certain bills.

Sec. 24. Bill imposing tax, manner of passing.

Sec. 25. Same subject.

Supervisors. Sec. 26. There shall be in the several counties, except in cities whose boundaries are the same as those of the county, a board of supervisors, to be composed of such members, and elected in such manner, and for such period, as is or may be provided by law.

Local legislation. Sec. 27. The Legislature shall, by general laws, confer upon the boards of supervisors of the several counties of the State such further powers of local legislation and administration as the Legislature may from time to time deem expedient.

Sec. 28. No extra compensation to be granted.

Sec. 29. Occupation and employment of convicts.

ARTICLE IV.—THE EXECUTIVE

Executive officers. Section 1. The executive power shall be vested in a Governor, who shall hold his office for two years; a Lieutenant-Governor shall be chosen at the same time, and for the same term. The Governor and Lieutenant-Governor elected next preceding the time when this section shall take effect, shall hold office until and including the thirty-first day of December, one thousand eight hundred and ninety-six, and their successors shall be chosen at the general election in that year.

Qualifications. Sec. 2. No person shall be eligible to the office of Governor or Lieutenant-Governor, except a citizen of the United States, of the age of not less than thirty years, and who shall have been five years next preceding his election a resident of this State.

Election. Sec. 3. The Governor and Lieutenant-Governor shall be elected at the times and places of choosing members of the Assembly. The persons respectively having the highest number of votes for Governor and Lieutenant-Governor shall be elected; but in case two or more shall have an equal and the highest number of votes for Governor, or for Lieutenant-Governor, the two houses of the Legislature at its next annual session shall forthwith, by joint ballot, choose one of the said persons so having an equal and the highest number of votes for Governor or Lieutenant-Governor.

Duties of the governor. Sec. 4. The Governor shall be Commander-in-Chief of the Military and naval forces of the State. He shall have power to convene the Legislature, or the Senate only, on extraordinary

occasions. At extraordinary sessions no subject shall be acted upon, except such as the Governor may recommend for consideration. He shall communicate by message to the Legislature at every session the condition of the State, and recommend such matters to them as he shall judge expedient. He shall transact all necessary business with the officers of government, civil and military. He shall expedite all such measures as may be resolved upon by the Legislature, and shall take care that the laws are faithfully executed. . . .

Sec. 5. Pardoning power vested in the Governor.

Sec. 6. Powers of Governor to devolve on Lieutenant-Governor.

Sec. 7. Requisite qualifications of Lieutenant-Governor—To be President of the Senate, and to act as Governor in certain cases.

Sec. 8. Compensation of Lieutenant-Governor.

Sec. 9. Bills to be presented to the Governor for signature—If returned by him with objections, how disposed of—Bills to be returned within ten days—After adjournment, bills must be approved in thirty days, else cannot become law—Governor may object to items of appropriation in any bill.

ARTICLE V.—OTHER STATE OFFICERS

Election.

Section 1. The Secretary of State, Comptroller, Treasurer, Attorney-General and State Engineer and Surveyor shall be chosen at a general election at the times and places of electing the Governor and Lieutenant-Governor, and shall hold their offices for two years, except as provided in section two of this article. . . .

Sec. 2. Same subject—Terms of office.

Superintendent of public works.

Sec. 3. A superintendent of public works shall be appointed by the Governor, by and with the advice and consent of the Senate, and hold his office until the end of the term of the Governor by whom he was nominated, and until his successor is appointed and qualified. He shall receive a compensation to be fixed by law. He shall be required by law to give security for the faithful execution of his office before entering upon the duties thereof. He shall be charged with the superintendence of all works relating to the repair and navigation of the canals, and such other

relating to the construction and improvement of the canals, except so far as the execution of the laws relating to such construction and improvement shall be confided to the State Engineer and Surveyor; subject to the control of the Legislature, he shall make the rules and regulations for the navigation or use of the canals. He may be suspended or removed from office by the Governor, whenever in his judgment, the public interest shall so require. . . .

Superintendent of prisons.

Sec. 4. A Superintendent of State Prisons shall be appointed by the Governor, by and with the advice and consent of the Senate, and hold his office for five years, unless sooner removed; he shall give security in such amount, and with such sureties as shall be required by law for the faithful discharge of his duties; he shall have the superintendence, management and control of State prisons, subject to such laws as now exist or may hereafter be enacted; he shall appoint the agents, wardens, physicians and chaplains of the prisons. . . .

Special commissions.

Sec. 5. The Lieutenant-Governor, Speaker of the Assembly, Secretary of State, Comptroller, Treasurer, Attorney-General and State Engineer and Surveyor shall be the Commissioners of the Land Office. The Lieutenant-Governor, Secretary of State, Comptroller, Treasurer and Attorney-General shall be the Commissioners of the Canal Fund. The Canal Board shall consist of the Commissioners of the Canal Fund, the State Engineer and Surveyor, and the Superintendent of Public Works.

Sec. 6. Powers and duties of Boards, etc.

Sec. 7. Treasurer may be suspended by Governor.

Sec. 8. Certain offices abolished.

Civil service law.

Sec. 9. Appointments and promotions in the civil service of the State, and of all the civil divisions thereof, including cities and villages, shall be made according to merit and fitness to be ascertained, so far as practicable, by examinations, which, so far as practicable, shall be competitive; provided, however, that honorably discharged soldiers and sailors from the army and navy of the United States in the late civil war, who are citizens and residents of this State, shall be entitled to preference in appointment and promotion, without regard to their standing on any list from which such appointment or promotion may be made. Laws shall be made to provide for the enforcement of this section.

ARTICLE VI. — THE JUDICIARY

Supreme court.

Section 1. The Supreme Court is continued with general jurisdiction in law and equity, subject to such appellate jurisdiction of the Court of Appeals as now is or may be prescribed by law not inconsistent with this article. . . .

Judicial departments.

Sec. 2. The Legislature shall divide the State into four judicial departments. The first department shall consist of the county of New York; the others shall be bounded by county lines, and be compact and equal in population as nearly as may be. Once every ten years the Legislature may alter the judicial departments, but without increasing the number thereof.

There shall be an Appellate Division of the Supreme Court, consisting of seven justices in the first department, and of five justices in each of the other departments. In each department four shall constitute a quorum, and the concurrence of three shall be necessary to a decision. No more than five justices shall sit in any case.

Sec. 3. Judges not to sit in review in certain cases.

Sec. 4. Term of office, fourteen years.

Sec. 5. Abolition of City Courts.

Sec. 6. Abolition of Circuit Courts and Oyer and Terminer.

Court of appeals.

Sec. 7. The Court of Appeals is continued. It shall consist of the chief judge and associate judges now in office, who shall hold their offices until the expiration of their respective terms, and their successors, who shall be chosen by the electors of the State. The official terms of the chief judge and associate judges shall be fourteen years from and including the first day of January next after their election. Five members of the court shall form a quorum, and the concurrence of four shall be necessary to a decision. The court shall have power to appoint and to remove its reporter, clerk and attendants.

Sec. 8. Vacancies, how filled.

Sec. 9. Jurisdiction of Court of Appeals.

Sec. 10. Judges of Court of Appeal, or justices of Supreme Court, to hold no other office.

Sec. 11. Removals — Proceedings in relation thereto.

Sec. 12. Compensation of judges and justices.

Impeachments.

Sec. 13. The Assembly shall have the power of impeachment, by a vote of a majority of all the members elected. The Court for the Trial of Impeachments shall be composed of the President of the Senate, the senators, or the major part of them, and the judges of the Court of Appeals, or the major part of them. On the trial of an impeachment against the Governor or Lieutenant-Governor, the Lieutenant-Governor shall not act as a member of the court. No judicial officer shall exercise his office, after articles of impeachment against him shall have been preferred to the Senate, until he shall have been acquitted. Before the trial of an impeachment the members of the court shall take an oath or affirmation truly and impartially to try the impeachment according to the evidence, and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, or removal from office and disqualification to hold and enjoy any office of honor, trust or profit under this State; but the party impeached shall be liable to indictment and punishment according to law.

County courts.

Sec. 14. The existing County Courts are continued, and the judges thereof now in office shall hold their offices until the expiration of their respective terms. In the county of Kings there shall be two county judges and the additional county judge shall be chosen at the next general election held after the adoption of this article. The successors of the several county judges shall be chosen by the electors of the counties for the term of six years. . . .

Sec. 15. Surrogates' Courts.

Sec. 16. Local judicial officers.

Sec. 17. Justices of the peace.

Sec. 18. Inferior local courts.

Sec. 19. Clerks of Supreme Court and Court of Appeals.

Sec. 20. No judicial officer except justice of the peace to receive fees.

Sec. 21. Publication of statutes to be provided for.

Sec. 22. Local judicial officers — Terms of office of incumbents.

Sec. 23. Courts of Special Sessions.

ARTICLE VII—STATE CREDIT AND DEBTS

Section 1. The credit of the State shall not in any manner be given or loaned to or in aid of any individual, association or corporation. State credit.

Sec. 2. The State may, to meet casual deficits or failures in revenues, or for expenses not provided for, contract debts; but such debts, direct or contingent, singly or in the aggregate, shall not at any time exceed one million of dollars; and the moneys arising from the loans creating such debts shall be applied to the purpose for which they were obtained, or to repay the debt so contracted, and to no other purpose whatever. State debts.

Sec. 3. In addition to the above limited power to contract debts, the State may contract debts to repel invasion, suppress insurrection, or defend the State in war; but the money arising from the contracting of such debts shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever. Special debts.

Sec. 4. Except the debts specified in sections two and three of this article, no debts shall be hereafter contracted by or on behalf of this State, unless such debt shall be authorized by law, for some single work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax to pay, and sufficient to pay, the interest on such debt as it falls due, and also to pay and discharge the principal of such debt within eighteen years from the time of the contracting thereof. No such law shall take effect until it shall, at a general election, have been submitted to the people, and have received a majority of all the votes cast for and against it at such election. . . . Limitation of debts.

Sec. 5. Sinking funds.
Sec. 6. Claims.
Sec. 7. Forest preserve.
Sec. 8. Certain canals not be leased or sold.
Sec. 9. Maintenance of canals.
Sec. 10. Improvements of canals.

ARTICLE VIII. — CORPORATIONS

How created. Section 1. Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the Legislature, the objects of the corporation cannot be attained under general laws. All general laws and special acts passed pursuant to this section may be altered from time to time or repealed.

Debts. Sec. 2. Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law.

Definition. Sec. 3. The term corporations as used in this article shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue and shall be subject to be sued in all courts in like cases as natural persons.

Sec. 4. Charters for savings banks and banking purposes.

Sec. 5. Specie payments.

Sec. 6. Registry of bills or notes.

Sec. 7. Individual responsibility of stockholders.

Sec. 8. Insolvency of banks, preference.

Sec. 9. Credit or money of the State not to be given or loaned.

Local restrictions. Sec. 10. No county, city, town or village shall hereafter give any money or property, or loan its money or credit to or in aid of any individual, association or corporation, or become directly or indirectly the owner of stock in, or bonds of, any association or corporation; nor shall any such county, city, town, or village be allowed to incur any indebtedness except for county, city, town or village purposes. This section shall not prevent such county, city, town or village from making such provision for the aid or support of its poor as may be authorized by law. No county or city shall be allowed to become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed ten per centum of the assessed valuation of the real estate of such county or city subject to taxation, as it appeared by the assessment-rolls of said county or city on the last assessment for State or county taxes prior to the incurring of such

indebtedness; and all indebtedness in excess of such limitation, except such as may now exist, shall be absolutely void, except as herein otherwise provided. . . .

Board of charities.

Sec. 11. The Legislature shall provide for a State Board of Charities, which shall visit and inspect all institutions, whether State, county, municipal, incorporated or not incorporated, which are of a charitable, eleemosynary, correctional or reformatory character, excepting only such institutions as are hereby made subject to the visitation and inspection of either of the commissions hereinafter mentioned, but including all reformatories except those in which adult males convicted of felony shall be confined; a State Commission in Lunacy, which shall visit and inspect all institutions, either public or private, used for the care and treatment of the insane (not including institutions for epileptics or idiots); a State Commission of Prisons which shall visit and inspect all institutions used for the detention of sane adults charged with or convicted of crime, or detained as witnesses or debtors.

Sec. 12. Same subject — appointment and removal.

Sec. 13. Inspection of institutions.

Sec. 14. Maintenance of charitable institutions.

Sec. 15. Commissioners, terms of office, etc.

ARTICLE IX. — EDUCATION

Free schools.

Section 1. The Legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this State may be educated.

The regents.

Sec. 2. The corporation created in the year one thousand seven hundred and eighty-four, under the name of the Regents of the University of the State of New York, is hereby continued under the name of The University of the State of New York. It shall be governed and its corporate powers, which may be increased, modified or diminished by the Legislature, shall be exercised, by not less than nine regents.

Educational funds.

Sec. 3. The capital of the common school fund, the capital of the literature fund, and the capital of the United States deposit fund, shall be respectively preserved inviolate. The revenue of the said common school fund shall be applied to the support of

common schools; the revenue of the said literature fund shall be applied to the support of academies; and the sum of twenty-five thousand dollars of the revenues of the United States deposit fund shall each year be appropriated to and made part of the capital of the said common school fund.

Sectarian schools.

Sec. 4. Neither the State nor any subdivision thereof, shall use its property or credit or any public money, or authorize or permit either to be used, directly or indirectly, in aid or maintenance, other than for examination or inspection, of any school or institution of learning wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine is taught.

ARTICLE X. — COUNTY OFFICERS

Certain officers.

Section 1. Sheriffs, clerks of counties, district attorneys, and registers in counties having registers, shall be chosen by the electors of the respective counties, once in every three years and as often as vacancies shall happen, except in the counties of New York and Kings, and in counties whose boundaries are the same as those of a city, where such officers shall be chosen by the electors once in every two or four years as the Legislature shall direct. . . . The Governor may remove any officer, in this section mentioned, within the term for which he shall have been elected; giving to such officer a copy of the charges against him, and an opportunity of being heard in his defence.

Other officers.

Sec. 2. All county officers, whose election or appointment is not provided for by this Constitution, shall be elected by the electors of the respective counties or appointed by the boards of supervisors, or other county authorities, as the Legislature shall direct. All city, town and village officers, whose election or appointment is not provided for by this Constitution, shall be elected by the electors of such cities, towns and villages, or of some division thereof, or appointed by such authorities thereof, as the Legislature shall designate for that purpose. All other officers, whose election or appointment is not provided for by this Constitution, and all officers, whose offices may hereafter be created by law, shall be elected by the people, or appointed, as the Legislature may direct.

Sec. 3. When the duration of any office is not provided by this Constitution, it may be declared by law, and if not so declared, such office shall be held during the pleasure of the authority making the appointment. Duration of office.

Sec. 4. Time of election to be prescribed by law.
Sec. 5. Vacancies in office, how filled.
Sec. 6. Political year begins on 1st of January.
Sec. 7. Removal from office.
Sec. 8. When office deemed vacant.
Sec. 9. Compensation of certain officers.

ARTICLE XI. — MILITIA

Section 1. All able-bodied male citizens between the ages of eighteen and forty-five years, who are residents of the State, shall constitute the militia, subject, however, to such exemptions as are now, or may be hereafter created by the laws of the United States, or by the Legislature of this State. How constituted.

Sec. 2. Provisions for enlistment.
Sec. 3. Organization and maintenance of militia.
Sec. 4. Officers to be appointed by the Governor.
Sec. 5. Commissioned and non-commissioned, how chosen.
Sec. 6. Officers, how commissioned.

ARTICLE XII. — MUNICIPAL ORGANIZATION

Section 1. It shall be the duty of the Legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments, and in contracting debt by such municipal corporations. Cities and villages.

Sec. 2. All cities are classified according to the latest State enumeration, as from time to time made, as follows: The first class includes all cities having a population of two hundred and fifty thousand, or more; the second class, all cities having a population of fifty thousand, and less than two hundred and fifty thousand; the third class, all other cities. Laws relating to the property, affairs or government of cities, and the several departments thereof, are divided into general and special city laws; Classification of cities.

general city laws are those which relate to all the cities of one or more classes; special city laws are those which relate to a single city, or to less than all the cities of a class. . . .

Elections. Sec. 3. All elections of city officers, including supervisors and judicial officers of inferior local courts, elected in any city or part of a city, and of county officers elected in the counties of New York and Kings, and in all counties whose boundaries are the same as those of a city, except to fill vacancies, shall be held on the Tuesday succeeding the first Monday in November in an odd-numbered year, and the term of every such officer shall expire at the end of an odd-numbered year. . . . This section shall not apply to any city of the third class, or to elections of any judicial officer, except judges and justices of inferior local courts.

ARTICLE XIII. — MISCELLANEOUS

Section 1. Oath of office.
Sec. 2. Bribery and corruption.
Sec. 3. Offer of bribery a felony.
Sec. 4. Witness in one's own behalf.
Sec. 5. Free passes or transportation, a misdemeanor.
Sec. 6. Removal of district attorney.

ARTICLE XIV. — AMENDMENTS

Procedure. Section 1. Any amendment or amendments to this Constitution may be proposed in the Senate and Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and referred to the Legislature to be chosen at the next general election of senators, and shall be published for three months previous to the time of making such choice; and if in the Legislature so next chosen, as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people for approval in such manner and at such times as the Legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the

electors voting thereon, such amendment or amendments shall become a part of the Constitution from and after the first day of January next after such approval.

Constitutional conventions.

Sec. 2. At the general election to be held in the year one thousand nine hundred and sixteen, and every twentieth year thereafter, and also at such times as the Legislature may by law provide, the question: "Shall there be a convention to revise the Constitution and amend the same?" shall be decided by the electors of the State; and in case a majority of the electors voting thereon shall decide in favor of a convention for such purpose, the electors of every senate district of the State, as then organized, shall elect three delegates at the next ensuing general election at which members of the Assembly shall be chosen, and the electors of the State voting at the same election shall elect fifteen delegates-at-large. The delegates so elected shall convene at the capitol on the first Tuesday of April next ensuing after their election, and shall continue their session until the business of such convention shall have been completed. Every delegate shall receive for his services the same compensation and the same mileage as shall then be annually payable to the members of the Assembly. A majority of the convention shall constitute a quorum for the transaction of business, and no amendment to the Constitution shall be submitted for approval to the electors as hereinafter provided, unless by the assent of a majority of all the delegates elected to the convention, the yeas and nays being entered on the journal to be kept. The convention shall have the power to appoint such officers, employés and assistants as it may deem necessary, and fix their compensation and to provide for the printing of its documents, journal and proceedings. The convention shall determine the rules of its own proceedings, choose its own officers, and be the judge of the election, returns and qualifications of its members. . . . Any proposed constitution or constitutional amendment which shall have been adopted by such convention, shall be submitted to a vote of the electors of the State at the time and in the manner provided by such convention, at an election which shall be held not less than six weeks after the adjournment of such convention. Upon the approval of such constitution or constitutional amendments, in the manner provided in the last preceding section, such constitution

or constitutional amendment, shall go into effect on the first day of January next after such approval.

Legislative amendments.

Sec. 3. Any amendment proposed by a constitutional convention relating to the same subject as an amendment proposed by the Legislature, coincidently submitted to the people for approval at the general election held in the year one thousand eight hundred and ninety-four, or at any subsequent election, shall, if approved, be deemed to supersede the amendment so proposed by the Legislature.

ARTICLE XV. — DATE OF OPERATION

Section 1. This Constitution shall be in force from and including the first day of January, one thousand eight hundred and ninety-five, except as herein otherwise provided.

Done in Convention at the Capitol in the city of Albany, the twenty-ninth day of September, in the year one thousand eight hundred and ninety-four, and of the Independence of the United States of America the one hundred and nineteenth.

In witness whereof, we have hereunto subscribed our names.

JOSEPH HODGES CHOATE,
President and Delegate-at-Large.

CHARLES ELLIOTT FITCH,
Secretary.

APPENDIX C

POLITICAL DIVISIONS OF THE STATE

94. COUNTIES IN THE ORDER OF THEIR ERECTION

[See *Legislative Manual, 1902*, pp. 192, 194.]

No.	Name.	From What Taken.	Date of Erection.	Area, Sq. Miles.
1.	Albany	Original	1683	514
2.	Dutchess	Original	1683	810
3.	Kings	Original	1683	72
4.	New York	Original	1683	39
5.	Orange	Original	1683	838
6.	Queens	Original	1683	58
7.	Richmond	Original	1683	59
8.	Suffolk	Original	1683	1,200
9.	Ulster	Original	1683	1,204
10.	Westchester	Original	1683	506
11.	Montgomery	Albany	1772	214
12.	Washington	Albany	1772	850
13.	Columbia	Albany	1786	688
14.	Clinton	Washington	1788	1,092
15.	Ontario	Montgomery	1789	640
16.	Rensselaer	Albany	1791	690
17.	Saratoga	Albany	1791	862
18.	Herkimer	Montgomery	1791	1,745
19.	Otsego	Montgomery	1791	1,038
20.	Tioga	Montgomery	1791	542
21.	Onondaga	Herkimer	1794	812
22.	Schoharie	Albany and Otsego	1795	675
23.	Steuben	Ontario	1796	1,425
24.	Delaware	Ulster and Otsego	1797	1,580
25.	Rockland	Orange	1798	208
26.	Chenango	Tioga and Herkimer	1798	898

No.	Name.	From What Taken.	Date of Erection.	Area, Sq. Miles.
27.	Oneida	Herkimer	1798	1,215
28.	Essex	Clinton	1799	1,926
29.	Cayuga	Onondaga	1799	756
30.	Greene	Albany and Ulster	1800	686
31.	St. Lawrence	Clinton	1802	2,880
32.	Genesee	Ontario	1802	507
33.	Seneca	Cayuga	1804	420
34.	Jefferson	Oneida	1805	1,868
35.	Lewis	Oneida	1805	1,288
36.	Madison	Chenango	1806	670
37.	Broome	Tioga	1806	706
38.	Allegany	Genesee	1806	1,033
39.	Cattaraugus	Genesee	1808	1,334
40.	Chautauqua	Genesee	1808	1,099
41.	Franklin	Clinton	1808	1,718
42.	Niagara	Genesee	1808	558
43.	Cortland	Onondaga	1808	485
44.	Schenectady	Albany	1809	221
45.	Sullivan	Ulster	1809	1,082
46.	Putnam	Dutchess	1812	234
47.	Warren	Washington	1813	968
48.	Oswego	Oneida and Onondaga	1816	1,038
49.	Hamilton	Montgomery	1816	1,745
50.	Tompkins	Cayuga and Seneca	1817	506
51.	Livingston	Genesee and Ontario	1821	655
52.	Monroe	Genesee and Ontario	1821	682
53.	Erie	Niagara	1821	1,071
54.	Yates	Ontario	1823	320
55.	Wayne	Ontario and Seneca	1823	624
56.	Orleans	Genesee	1824	405
57.	Chemung	Tioga	1836	406
58.	Fulton	Montgomery	1838	544
59.	Wyoming	Genesee	1841	590
60.	Schuyler	Chemung, Steuben, and Tompkins	1854	352
61.	Nassau	Queens	1899	352
	Total area of State			50,203

95. Senate and Assembly Districts

[For special limits of senatorial districts, see *Legislative Manual*, 1902, p. 468; for assembly districts, *Ibid.*, p. 499. — with maps. See also map at the beginning of this volume.]

Senate Districts.	Counties.	No. of Assembly Districts.
I	Suffolk	2
	Richmond	1
II	Queens	2
	Nassau	1
III–IX	Kings	21
X–XXI	New York	35
XXII	Westchester	3
XXIII	Orange	2
	Rockland	1
XXIV	Dutchess	2
	Columbia	1
	Putnam	1
XXV	Ulster	2
	Green	1
XXVI	Delaware	1
	Chenango	1
	Sullivan	1
XXVII	Montgomery	1
	Fulton Hamilton	1
	Schoharie	1
XXVIII	Saratoga	1
	Schenectady	1
	Washington	1
XXIX	Albany	4
XXX	Rensselaer	3
XXXI	Clinton	1
	Essex	1
	Warren	1
XXXII	St. Lawrence	2
	Franklin	1
XXXIII	Otsego	1
	Herkimer	1
XXXIV	Oneida	3
XXXV	Jefferson	2
	Lewis	1
XXXVI	Onondaga	4
XXXVII	Oswego	2
	Madison	1
XXXVIII	Broome	2
	Cortland	1
	Tioga	1
XXXIX	Cayuga	2
	Seneca	1
XL	Chemung	1
	Tompkins	1
	Schuyler	1
XLI	Steuben	2
	Yates	1
XLII	Ontario	1
	Wayne	1
XLIII, XLIV	Monroe	4
XLV	Niagara	2
	Genesee	1
	Orleans	1
XLVI	Allegany	1
	Livingston	1
	Wyoming	1
XLVII–XLIX	Erie	8
L	Chautauqua	2
	Cattaraugus	2
	Total	150

96. Judicial Districts and Departments

[See *Legislative Manual, 1902*, pp. 560, 564 — with map.]

A. Judicial Districts

First District. — City and county of New York, excepting that part annexed from Westchester county.

Second District. — Counties of Richmond, Suffolk, Queens, Kings, Westchester, Orange, Rockland, Putnam, and Dutchess, and that part of New York county taken from Westchester.

Third District. — Counties of Columbia, Sullivan, Ulster, Greene, Albany, Schoharie, and Rensselaer.

Fourth District. — Counties of Warren, Saratoga, Washington, Essex, Franklin, St. Lawrence, Clinton, Montgomery, Hamilton, Fulton, and Schenectady.

Fifth District. — Counties of Onondaga, Oneida, Oswego, Herkimer, Jefferson, and Lewis.

Sixth District. — Counties of Otsego, Delaware, Madison, Chenango, Broome, Tioga, Chemung, Tompkins, Cortland, and Schuyler.

Seventh District. — Counties of Livingston, Wayne, Seneca, Yates, Ontario, Steuben, Monroe, and Cayuga.

Eighth District. — Counties of Erie, Chautauqua, Cattaraugus, Orleans, Niagara, Genesee, Allegany, and Wyoming.

B. Judicial Departments

First Department, consists of the county of New York.

Second Department, consists of the Second Judicial District.

Third Department, consists of the Third, Fourth, and Sixth Judicial Districts.

Fourth Department, consists of the Fifth, Seventh, and Eighth Judicial Districts.

APPENDIX D

SYNOPTICAL REVIEW OF THE STATE GOVERNMENT

97. The Central Government of the State

I. Legislative Branch.

1. *Senate*, — fifty (50) members elected from the different "senate districts," for two years. (*N. Y. Const.*, III., § 2.)
2. *Assembly*, — one hundred and fifty (150) members, elected from the different "assembly districts" for one year. (*N. Y. Const.*, III., § 2.)

II. Executive Branch.

1. *Executive Officers*, — elected for two years. (*N. Y. Const.*, IV., § 1, V., § 1.)
 (1). Governor.
 (2). Lieutenant-governor.
 (3). Secretary of State.
 (4). Comptroller.
 (5). Treasurer.
 (6). Attorney-general.
 (7). State Engineer and Surveyor.
2. *Administrative Officers, Boards and Commissions.*[1]

GENERAL

(1). State Board of Canvassers, — five *ex officio* members, viz., secretary of state, attorney-general, comptroller, state engineer and treasurer. (*General Laws*, ch. 6, § 139.)

[1] These various and numerous boards and commissions have been created from time to time in order to meet the growing administrative needs of the State. They have at present no structural relation to each other, not being organized under more general bureaus or departments.

(21). Board of Managers of the Craig Colony for Epileptics (at Sonyea, Livingston Co.), — twelve managers appointed for three years. (*General Laws*, ch. 26, art. 7.)

(22). Board of Managers of the Rochester State Industrial School, — fifteen managers appointed for three years. (*General Laws*, ch. 26, § 120.)

(23). Board of Managers of the Society for the Reformation of Juvenile Delinquents in the City of New York, — thirty managers elected by the society for three years. (*General Laws*, ch. 26, § 121.)

(24). Board of Managers of the Hudson River House of Refuge for Women (at Poughkeepsie), — six managers appointed for six years. (*General Laws*, ch. 26, art. 9.)

(25). Board of Managers of the Albion Western House of Refuge for Women, — six managers appointed for six years. (*Ibid.*)

(26). Board of Managers for the Bedford State Reformatory for Women, — six managers appointed for six years. (*Ibid.*)

(27). Board of Managers of the Thomas Asylum for Orphan and Destitute Indian Children, — ten managers appointed for six years. (*General Laws*, ch. 26, § 161.)

(28). Board of Trustees of the Batavia State School for the Blind, — nine trustees appointed for three years. (*Laws*, *1865*, ch. 587.)

(29). Board of Trustees of the State Soldiers' and Sailors' Home (at Bath), — nine trustees appointed for three years, and two *ex officio* members, the governor and attorney-general. (*General Laws*, ch. 14, § 40.)

(30). Board of Managers of the State Woman's Relief Corps Home (at Oxford), — nine managers appointed for six years. (*Laws*, *1894*, ch. 468.)

(31). Agent of the Onondaga Tribe of Indians, — appointed for one year. (*Laws*, *1843*, ch. 228, and *1892*, ch. 679.)

(12). State Board of Pharmacy, — fifteen members elected by different pharmaceutical societies in three sections of the State. (*General Laws*, ch. 25, § 190.)

(13). Board of Embalming Examiners, — five members appointed for three years. (*Laws*, *1898*, ch. 555.)

PUBLIC EDUCATION

(14). Board of Regents of the University of the State of New York, — nineteen elective regents elected by the legislature for life, and four *ex officio* regents, viz., governor, lieutenant-governor, secretary of state, and superintendent of public instruction. (*N. Y. Const.*, ix, § 2; *Laws*, *1892*, ch. 378, also *General Laws*, ch. 23.)

(15). Superintendent of Public Instruction, — elected by legislature for three years. (*Laws*, *1894*, ch. 556, also *General Laws*, ch. 23.)

(16). State Historian, — appointed for four years. (*Laws 1895*, ch. 393.)

CHARITIES AND CORRECTIONS

(17). State Board of Charities, — twelve members appointed for eight years. (*N. Y. Const.*, viii, §§ 11, 12; *General Laws*, ch. 26, § 3.)

(18). Board of Managers of the Syracuse State Institute for Feeble-minded Children, — eight managers appointed for eight years. (*General Laws*, ch. 26, art. 4.)

(19). Board of Managers of Newark State Custodial Asylum for Feeble-minded Women, — nine managers appointed for six years. (*General Laws*, ch. 26, art. 5.)

(20). Board of Managers of Rome State Custodial Asylum for Unteachable Idiots, — eleven managers appointed for six years. (*General Laws*, ch. 26, art. 6.)

(43). Commission of Watkins Glen Reservation, — five members appointed for five years. (*Laws, 1899*, ch. 683.)

(44). Bronx Valley Sewer Commission, — five members for five years. (*Laws, 1895*, ch. 570.)

(45). Commission for Water Power on Black River, — four members, no term fixed. (*Laws, 1894*, ch. 168.)

(46). Superintendent of Onondaga Salt Springs, — appointed for three years. (*General Laws*, ch. 13, § 5.)

PUBLIC BUILDINGS

(47). Trustees of Public Buildings, — three *ex officio* members, governor, lieut.-governor, speaker of the assembly, who appoint a superintendent. (*General Laws*, ch. 14, § 2.)

(48). State Architect, — appointed, term not fixed. (*General Laws*, ch. 14, § 6.)

(49). Trustees of Washington's Headquarters (at Newburgh), — ten members appointed for five years. (*General Laws*, ch. 14, § 21.)

AGRICULTURE, LABOR, AND DOMESTIC COMMERCE

(50). Department of Agriculture, — one commissioner appointed for three years. (*General Laws*, ch. 33, § 2.)

(51). State Fair Commission, — eleven members, nine appointed by governor from various agricultural societies, for three years, and two *ex officio* members, lieut.-governor, and commissioner of agriculture. (*General Laws*, ch. 33, § 141.)

(52). Trustees of New York Agricultural Experiment Station (at Geneva), — nine members appointed for three years. (*General Laws*, ch. 33, § 85.)

(53). Department of Labor, — one commissioner appointed for four years. (*Laws, 1901*, ch. 9.)

(54). Superintendent of Weights and Measures, — appointed by governor, lieut.-governor, and secre-

tary of state during pleasure of appointing power. (*General Laws*, ch. 9, § 80.)

(55). Inspector of Gas Meters, — appointed for five years. (*General Laws*, ch. 40, § 62.)

CANALS AND NAVIGATION

(56). Commission of the Canal Fund, — five *ex officio* members, viz., lieut.-governor, secretary of state, comptroller, treasurer, and attorney-general. (*N. Y. Const.*, v., § 5.)

(57). Canal Board, — seven *ex officio* members, viz., the five commissioners of the canal fund, the state engineer and the superintendent of public works. (*N. Y. Const.*, v., § 5; *General Laws*, ch. 12, art. II.)

(58). Superintendent of Public Works, — appointed during governor's term. (*N. Y. Const.*, v., § 3; *General Laws*, ch. 12, art. III.)

(59). Port Wardens of the Port of New York, — nine in number appointed for three years. (*Laws*, *1857*, ch. 405.)

(60). Harbor Master of the Port of Albany, — appointed, no term fixed. (*General Laws*, ch. 30, § 60.)

CONTROL OF CORPORATIONS

(61). Insurance Department, — a superintendent appointed for three years. (*General Laws*, ch. 38, § 2.)

(62). Bank Department, — a superintendent appointed for three years. (*General Laws*, ch. 37, § 3.)

(63). Railroad Commission, — three members appointed for five years. (*General Laws*, ch. 39, § 150.)

MISCELLANEOUS

(64). State Racing Commission, — three members appointed by governor for five years. (*Laws*, *1894*, ch. 570.)

(65). Supervisors of Accounts of Race Meetings, three in number appointed by governor for five years. (See *Legislative Manual*, 1895, p. 448

(66). State Board of Classification, — eight *ex officio* members, viz., comptroller, superintendent of prisons, the three commissioners of prisons and the three commissioners in lunacy. (*Laws, 1897*, ch. 623, § 107.)

(67). Trustees of the Supreme Court Library at Elmira, — three in number appointed by the governor for three years. (*Laws, 1895*, ch. 231.)

(68). Miscellaneous Reporter, — appointed by the governor for five years. (*Laws, 1892*, ch. 598.)

III. Judicial Branch.

1. *Court for the Trial of Impeachments*, — consisting of the president of the senate, the senators or the major part of them, and the judges of the court of appeals or the major part of them. (*N. Y. Const.*, vi., § 13.)
2. *Court of Appeals*, — consisting of one chief judge and six associate judges, elected by the people for fourteen years — together with temporary associate judges appointed by the governor when the accumulation of cases requires such appointments. (*N. Y. Const.*, vi., § 7.)
3. *Supreme Court*, — consisting of seventy-six justices elected by the people in the eight judicial districts for fourteen years — from which number are chosen certain justices to sit in an Appellate Division in each of the four judicial departments. (*N. Y. Const.*, vi., §§ 1, 2.)
4. *Court of Claims*, — three judges appointed for six years. (*New York Code of Civil Procedure*, § 263.)

98. The Government of Greater New York

[For original charter, see *Laws, 1897*, ch. 378; revised charter, *Laws, 1901*, ch. 406, and amendments of the same year.]

I. Legislative Branch.

1. *Board of Aldermen*, — consisting of
 (1). President of the Board, — elected for two years.
 (2). Presidents of the Boroughs, — elected for two years.
 (3). Aldermen, — one elected from each of the seventy-three aldermanic districts for two years.
2. *City Clerk*, — elected by the Board for six years.

II. **Executive Branch.**

1. *Mayor*, — elected for two years, assisted by two special commissions, the members appointed by him ;
 (1). Commission of Accounts, — two members.
 (2). Municipal Civil Service Commission, — three or more members.
2. *Administrative Departments*, — the heads of which are appointed by the mayor and hold office until their successors are appointed, unless otherwise provided.
 (1). Department of Finance, — consisting of
 (*a*). Comptroller, — elected for two years.
 (*b*). Chamberlain, — appointed by mayor,
 (*c*). Commission of the Sinking Fund, — consisting of the mayor, chamberlain, president of the board of aldermen, and chairman of the finance committee of that board.
 (*d*). Board of Estimate and Apportionment, — consisting of the mayor, comptroller, president of the board of aldermen, and presidents of the five boroughs.
 (2). Law Department, — under the corporation counsel.
 (3). Police Department, — under one police commissioner.
 (4). Departmemt of Water Supply, Gas and Electricity, — under one commissioner.
 (5). Department of Street Cleaning, — under one commissioner.
 (6). Department of Bridges, — under one commissioner.
 (7). Department of Parks, — under a board of three commissioners.
 (8). Department of Public Charities, — under one commissioner.
 (9). Department of Correction, — under one commissioner.
 (10). Fire Department, — under one commissioner.
 (11). Department of Docks and Ferries, — under one commissioner.
 (12). Department of Taxes and Assessment, — under a board consisting of a president and four other members.

(13). Department of Education, — under a board of forty six (46) members appointed by mayor for five years — from Manhattan 22, Brooklyn 14, Bronx 4, Queens 4, Richmond 2. Board appoints the following officers for six years: —

(*a*). Superintendent of Schools.

(*b*). Superintendent of School Buildings.

(*c*). Superintendent of Supplies.

(*d*). Supervisor of Lectures.

(14). Department of Health, — under a board consisting of one commissioner of health, the police commissioner, and the health officer of the port.

(15). Tenement House Department, — under one commissioner.

III. **Judicial Branch** (besides City Court and Court of General Sessions, which are properly county courts).

1. *Municipal Court*, — justices elected by the people for ten years, having civil jurisdiction.
2. *Court of Special Sessions*, — justices appointed by the mayor for ten years, with criminal jurisdiction.

IV. **Borough Organization.**

1. *President*, — elected by the borough for two years; appoints: —
 (1). Commissioner of Public Works.
 (2). Superintendent of Buildings.
2. *Local Improvement Board*, — consisting of the president of the borough and the aldermen elected from each "local improvement district" in the borough.

99. The Government of Buffalo

[For revised charter, see *Laws*, *1891*, ch. 105; most important amendments, *Laws*, *1894*, ch. 35, *1895*, ch. 805, *1901*, ch. 228, and *1902*, chs. 19, 191.]

I. **Legislative Branch.**

1. *Common Council*, — consisting of
 (1). Board of Councilmen, — nine members elected for four years.

(2). Board of Aldermen, — elected one from each ward for two years.

2. *City Clerk*, — elected annually by common council.

II. Executive Branch.

1. *Mayor*, — elected for four years.
2. *Administrative Departments.*
 (1). Department of Finance, — consisting of
 (*a*). Comptroller, — elected for four years.
 (*b*). Treasurer, — elected for four years.
 (2). Department of Assessment, — under three assessors elected for six years.
 (3). Department of Law, — under a corporation counsel elected for three years.
 (4). Department of Police, — under a board, consisting of the mayor, and two commissioners appointed by the mayor for four and five years respectively.
 (5). Department of Health, — under one commissioner appointed by the mayor for five years.
 (6). Department of Fire, — under three commissioners appointed by the mayor for six years.
 (7). Department of Public Works, — under one commissioner elected for four years.
 (8). Department of Parks, — under five commissioners appointed by mayor for five years.
 (9). Department of Education, — consisting of
 (*a*). Superintendent, — elected for four years.
 (*b*). Board of Examiners, — five citizens appointed by mayor for five years.
 (10). Department of the Poor, — under an overseer of the poor elected for four years.

III. Judicial Branch.

1. *Municipal Court*, — two judges elected for six years, with civil jurisdiction.
2. *Police Court*, — police justice elected for four years, with criminal jurisdiction.
3. *Justice Court*, — three justices elected for four years — and special justices appointed by the police board — with special criminal jurisdiction.

100. The Government of Cities of the Second Class — Rochester, Syracuse, Albany, Troy

[See *Laws, 1898*, ch. 182, "An Act for the government of cities of the second class."]

I. Legislative Branch.

1. *Common Council*, — consisting of
 (1). President of the council, — elected for two years.
 (2). Aldermen, — elected one from each ward for two years.
2. *City Clerk*, — appointed by common council for two years.

II. Executive Branch.

1. *Mayor*, — elected for two years.
2. *Administrative Departments.*
 (1). Department of Finance, — consisting of
 (*a*). Comptroller, — elected for two years.
 (*b*). Treasurer, — elected for two years.
 (*c*). Board of Estimate and Apportionment, — consisting of the mayor, comptroller, corporation counsel, president of the common council, and city engineer.
 (2). Department of Public Works, — consisting of
 (*a*). Commissioner of Public Works, — appointed by the mayor, and having the power to appoint
 (*a*). Superintendent of Water Works.
 (*b*). Superintendent of Parks.
 (*b*). City Engineer, — appointed by the mayor.
 (*c*). Board of Contract and Supply, — consisting of the mayor, comptroller, commissioner of public works, corporation counsel, and city engineer.
 (3). Department of Public Safety, — under a Commissioner of Public Safety, appointed by the mayor, and having jurisdiction over the following departments: —
 (*a*). Police Department, — under a chief appointed by the commissioner.
 (*b*). Fire Department, — under a chief appointed by the commissioner.

(3). Health Department, — under a health officer appointed by the commissioner.

(4). Department of Public Instruction, — consisting

(a). Board of Education, — consisting of a certain number of commissioners, as constituted by special law.

(b). Superintendent of Schools, — appointed by the board.

(c). School Inspectors, — appointed by the mayor for five years.

(5). Department of Assessment and Taxation, — consisting of four assessors elected for four years.

(6). Department of Charities and Correction, — comprising

(a). Commissioner of Charities and Correction, — appointed by the mayor.

(b). Overseer of the Poor, — appointed by the commissioner.

(7). Department of Law, — under the corporation counsel appointed by the mayor.

III. **Judicial Branch.**

1. *City Court*, — having civil jurisdiction.

(1). Judges of the City Court, — two elected for six years.

(2). Marshals, — not to exceed five appointed by the mayor for one year.

2. *Police Court*, — having criminal jurisdiction.

Police Justice, — one or more elected for six years.

101. The Government of Counties, Towns, and Villages

[See *Constitution of New York*, x., § 1, also *General Laws*, ch. 18, "The County Law," ch. 20, "The Town Law," ch. 21, "The Village Law."]

A. The Government of the County

I. **Legislative Branch.**

Board of Supervisors, — one member elected from each town and from each ward of the cities within the county for two years.

II. Executive Branch.

1. Sheriff. 2. District Attorney. 3. County Treasurer. 4. County Clerk. 5. Coroners. 6. Superintendent of the Poor. 7. School Commissioner, — all elected for three years.

III. Judicial Branch.

1. *County Court*, with civil and criminal jurisdiction. 2. *Surrogate's Court*. — Each under a single judge elected for six years.

In New York City, in place of the above county court: 1. City Court, with civil jurisdiction; 2. Court of General Sessions, with criminal jurisdiction.

B. The Government of the Town

I. Legislative Branch.

Town Meeting, consisting of all qualified voters.

II. Executive Branch.

1. Supervisor. 2. Town Clerk. 3. Highway Commissioners, one to three. 4. Overseers of the Poor, one or two. 5. Constables, not more than five. 6. Assessors, three. 7. Collector. 8. Inspectors of Election, four, — all elected for three years.

III. Judicial Branch.

Justice's Court, — four justices elected for four years.

C. The Government of the Village

I. Legislative Branch.

Board of Trustees, — consisting of the president of the village, and from two to four trustees elected for two years.

II. Executive Branch.

1. *Executive Officers.*

(1). President. (2). Treasurer. (3). Village Clerk. (4). Inspectors of elections, — all elected for one year.

2. *Administrative Boards.*

(1). Street Commission. (2). Health Commission, — from three to five members elected for three to five years. (3). Fire Commission. (4). Water Commission. (5). Light Commission. (6). Sewer Commission. (7). Cemetery Commission.

III. Judicial Branch.

Police Court, — under one justice elected for four years.

APPENDIX E

STATISTICAL TABLES

102. POPULATION BY COUNTIES

[See *Legislative Manual*, 1902, p. 246.]

	1880	1870	1880	1890	1900
Albany	110,917	133,052	154,890	164,555	165,571
Allegany	41,881	40,814	41,810	43,240	41,501
Broome	35,906	44,103	49,483	62,973	69,149
Cattaraugus	43,886	43,909	55,806	60,836	65,643
Cayuga	55,767	59,550	65,081	65,302	66,234
Chautauqua	58,422	59,327	65,342	75,202	88,314
Chemung	26,917	35,281	43,065	48,205	54,063
Chenango	40,934	40,564	39,891	37,776	36,568
Clinton	45,735	47,947	50,897	46,437	47,430
Columbia	47,172	47,044	47,928	46,172	43,211
Cortland	26,294	25,173	25,825	28,657	27,576
Delaware	42,165	42,972	42,721	45,490	46,413
Dutchess	64,941	74,041	79,184	77,879	81,670
Erie	141,971	178,699	219,884	322,981	433,686
Essex	28,214	29,012	34,515	32,052	30,707
Franklin	30,837	30,271	32,390	38,110	42,853
Fulton	24,162	27,064	30,985	37,650	42,842
Genesee	32,189	31,606	32,806	33,265	34,561
Greene	31,930	31,832	32,695	31,598	31,478
Hamilton	3,024	2,960	3,923	4,762	4,947
Herkimer	40,561	39,929	42,669	45,608	51,049
Jefferson	69,825	65,415	66,193	68,806	76,748
Kings	279,122	419,921	599,495	838,547	1,166,582
Lewis	28,580	28,699	31,416	29,826	27,497
Livingston	39,546	38,309	39,562	37,801	37,151
Madison	43,545	43,522	44,112	42,809	40,554
Monroe	100,648	117,868	144,903	189,186	217,854
Montgomery	30,866	34,457	38,315	44,805	47,448
Nassau	—	—	—	—	55,448
New York	813,669	942,292	1,206,299	1,515,301	1,850,093

102. Population by Counties (*Continued*)

	1860	1870	1880	1890	1900
Niagara	50,399	50,437	54,173	62,491	74,961
Oneida	105,202	110,008	115,475	122,922	132,800
Onondaga	90,686	104,183	117,893	146,247	166,735
Ontario	44,563	45,108	49,541	48,453	49,605
Orange	63,812	80,902	88,220	97,859	103,859
Orleans	28,717	27,689	30,128	30,803	30,164
Oswego	75,958	77,941	77,911	71,883	70,881
Otsego	50,157	48,967	51,397	50,861	48,939
Putnam	14,002	15,420	15,181	14,849	13,787
Queens	57,391	73,803	90,574	128,056	152,999
Rensselaer	86,328	99,549	115,328	124,511	121,697
Richmond	25,492	33,029	38,991	51,693	67,021
Rockland	22,492	25,213	27,690	35,162	38,298
St. Lawrence	83,689	84,826	85,997	85,048	89,083
Saratoga	51,729	51,529	55,156	57,663	61,089
Schenectady	20,002	21,347	23,538	29,797	46,852
Schoharie	34,469	33,340	32,910	29,164	26,854
Schuyler	18,840	18,989	18,842	16,711	15,811
Seneca	28,138	27,823	29,278	28,227	28,114
Steuben	66,690	67,717	77,586	81,473	82,822
Suffolk	43,275	46,924	53,888	62,491	77,582
Sullivan	32,385	34,550	32,491	31,031	32,306
Tioga	28,748	30,572	32,673	29,935	27,951
Tompkins	31,409	33,178	34,445	32,923	33,830
Ulster	76,381	84,075	85,838	87,062	88,422
Warren	21,434	22,592	25,179	27,866	29,943
Washington	45,904	49,568	47,871	45,690	45,624
Wayne	47,762	47,710	51,700	49,729	48,660
Westchester	99,497	131,348	108,988	146,772	183,375
Wyoming	31,968	29,165	30,907	31,193	30,413
Yates	20,290	19,595	21,087	21,001	20,318
Total	3,880,735	4,382,759	5,082,871	5,997,853	7,268,012

103. Population of Cities

[See *Legislative Manuals*, since 1860.]

	1860	1870	1880	1890	1900
Albany	62,367	69,452	90,903	94,923	94,151
Amsterdam	—	—	—	17,336	20,929
Auburn	10,786	17,233	21,924	25,858	30,345
Binghamton	—	12,733	17,315	35,000	39,647

103. Population of Cities [illegible]

	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Brooklyn[1]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Buffalo	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Cohoes	—	[illegible]	[illegible]	[illegible]	[illegible]
Corning	—	—	—	[illegible]	[illegible]
Cortland	—	—	—	—	[illegible]
Dunkirk	—	—	—	[illegible]	[illegible]
Elmira	—	15,590	20,541	[illegible]	[illegible]
Geneva	—	—	—	[illegible]	[illegible]
Gloversville	—	—	—	[illegible]	[illegible]
Hornellsville	—	—	—	[illegible]	[illegible]
Hudson	7,187	8,615	8,069	[illegible]	[illegible]
Ithaca	—	—	—	[illegible]	[illegible]
Jamestown	—	—	—	[illegible]	[illegible]
Johnstown	—	—	—	[illegible]	[illegible]
Kingston	—	—	18,342	[illegible]	[illegible]
Little Falls	—	—	—	[illegible]	[illegible]
Lockport	—	12,426	17,117	[illegible]	[illegible]
Long Island City[1]	—	—	17,096	[illegible]	[illegible]
Middletown	—	—	—	[illegible]	[illegible]
Mount Vernon	—	—	—	[illegible]	[illegible]
Newburgh	15,196	17,014	18,050	[illegible]	[illegible]
New Rochelle	—	—	—	[illegible]	[illegible]
New York	813,669	942,292	1,206,590	[illegible]	[illegible]
Niagara Falls	—	—	—	[illegible]	[illegible]
North Tonawanda	—	—	—	[illegible]	[illegible]
Ogdensburg	—	10,076	10,340	[illegible]	[illegible]
Olean	—	—	—	[illegible]	[illegible]
Oneida	—	—	—	[illegible]	[illegible]
Oswego	16,816	20,910	21,117	[illegible]	[illegible]
Poughkeepsie	14,726	20,080	20,207	[illegible]	[illegible]
Rensselaer	—	—	—	[illegible]	[illegible]
Rochester	48,204	62,386	89,366	[illegible]	[illegible]
Rome	—	11,000	12,045	[illegible]	[illegible]
Schenectady	9,579	11,026	13,655	[illegible]	[illegible]
Syracuse	28,119	43,051	51,792	[illegible]	[illegible]
Troy	39,235	44,533	56,748	[illegible]	[illegible]
Utica	22,529	28,804	33,914	[illegible]	[illegible]
Watertown	—	9,336	10,697	[illegible]	[illegible]
Watervliet	—	—	—	[illegible]	[illegible]
Yonkers	—	—	18,892	[illegible]	[illegible]
Total	1,136,203	1,398,442	2,447,589	[illegible]	[illegible]
Percentage of city population	29%	43%	47%	[illegible]	[illegible]

[1] Consolidated with New York, 1897.

104. The Presidential Vote of New York

[These figures, before the year 1900, may be found scattered through different tables in Stanwood, *History of the Presidency*. Before 1828 the presidential electors were chosen by the legislature. Before 1804 the candidates for president and vice-president were not separately designated as such; and hence the names of the president-elect and of his chief competitor only are given here. Beginning with the year 1804, the candidates for president are arranged in the order of the number of votes received. The star (*) is placed before the name of the successful candidate. Except at four elections (those of 1812, 1856, 1868, and 1876), the vote of New York has always been cast for the person elected President.]

Electoral Vote from 1788 to 1828

1788	
*Washington (no vote cast by New York)	
1792	
*Washington, Fed.	12
1796	
*John Adams, Fed.	12
Jefferson, Dem. Rep.	0
1800	
*Jefferson, Dem. Rep.	12
John Adams, Fed.	0
1804	
*Jefferson, Dem. Rep.	19
C. C. Pinckney, Fed.	0
1808	
*Madison, Dem. Rep.	13
Geo. Clinton, Dem. Rep.	6
C. C. Pinckney, Fed.	0
1812	
DeW. Clinton, Fed.	29
*Madison, Dem. Rep.	0
1816	
*Monroe, Dem. Rep.	29
Rufus King, Fed.	0
1820	
*Monroe, Dem. Rep.	29
J. Q. Adams, Nat. Rep.	0
1824	
*J. Q. Adams, Nat. Rep.	26
Crawford, Dem.	5
Clay, Whig	4
Jackson, Dem.	1

Popular Vote since 1828

1828	
*Jackson, Dem.	140,763
Adams, Nat. Rep.	135,413
1832	
*Jackson, Dem.	168,497
Clay, Nat. Rep.	154,896
1836	
*Van Buren, Dem.	166,815
Harrison, Whig	138,543
1840	
*Harrison, Whig	225,817
Van Buren, Dem.	212,527
Birney, Abol.	2,808

POPULAR VOTE SINCE 1828 (*Continued*)

1844	
*Polk, Dem.	237,588
Clay, Whig	232,482
Birney, Abol.	15,812
1848	
*Taylor, Whig	218,603
Van Buren, Dem.	120,510
Cass, Free Soil	114,318
1852	
*Pierce, Dem.	262,083
Scott, Whig	234,882
Hale, Free Soil	25,329
1856	
Fremont, Rep.	276,007
*Buchanan, Dem.	195,878
Fillmore, Amer.	124,604
1860	
*Lincoln, Rep.	362,646
Douglas, Dem.[1]	312,510
1864	
*Lincoln, Rep.	368,726
McClellan, Dem.	361,986
1868	
Seymour, Dem.	429,883
*Grant, Rep.	419,883
1872	
*Grant, Rep.	440,736
Greeley, Dem.	387,281
O'Connor, Dem.	1,458
Black, Temperance	201
1876	
Tilden, Dem.	521,949
*Hayes, Rep.	489,207
Smith, Pro.	2,359
Cooper, Ind.	1,987
1880	
*Garfield, Rep.	555,544
Hancock, Dem.	534,511
Weaver, Greenback	12,373
Dow, Pro.	1,517
1884	
*Cleveland, Dem.	563,154
Blaine, Rep.	562,005
St. John, Pro.	25,016
Butler, Anti-Monop.	16,994
1888	
*Harrison, Rep.	648,759
Cleveland, Dem.	635,757
Fisk, Pro.	30,231
Streeter, Un. Labor	626
1892	
*Cleveland, Dem.	654,868
Harrison, Rep.	609,350
Bidwell, Pro.	38,190
Wing, Soc. Labor	17,956
Weaver, Peoples	16,429
1896	
*McKinley, Rep.	819,838
Bryan, Dem.	551,369
Palmer, Nat. Dem.	18,950
Matchett, Soc. Labor	17,667
Levering, Pro.	16,052
1900	
*McKinley, Rep.	821,992
Bryan, Dem.	678,386
Wooley, Pro.	22,043
Debs, Soc. Dem.	12,869
Maloney, Soc. Labor	12,622

[1] The other candidates, Breckenridge and Bell, received practically no vote in New York.

105. The State Finances

[The following items are taken from the State Treasurer's Report for the year ending Sept. 30, 1901, — but rearranged and classified to illustrate the subjects discussed in the previous text. While the amounts vary from year to year, the items remain practically the same. Unless otherwise indicated, these various items are accounted to the General Fund.]

A. STATE REVENUES

1. Revenue from Income (other than taxes)

(1).	*From Investments and Deposits.*		
	General Fund . . .	$65,723.39	
	Common School Fund . .	267,042.63	
	United States Deposit Fund .	193,737.30	
	Literature Fund . . .	14,578.00	
	Free School Fund . .	9,345.99	
	Military Record Fund . .	3,984.41	
	Forest Preserve Fund . .	64,108.13	
	Cornell University Fund .	60.27	
	Canal Fund	152,827.43	
			$771,407.55
(2).	*From Public Lands (sales and rent).*		
	General Fund . . .	$59,829.80	
	Canal Fund	1,381.25	
			61,211.05
(3).	*From United States Government.*		
	For Soldiers' and Sailors' Home . . .	$158,080.25	
	For Spanish War expenses .	146,800.74	
	For Cornell University Fund	25,000.00	
			329,880.99
(4).	*From City of Buffalo.*		
	For Pan American Exhibition . .		50,849.32
(5).	*Miscellaneous Income.*		
	General Fund . . .	$39,627.28	
	Canal Fund	4,427.42	
			44,055.40
	Total revenue from income . .		$1,257,404.51

2. Revenue derived from Taxation

(1). *From General or Direct Taxes.*

General State tax . .	[illegible]	
School tax. Free Sch. Fund	[illegible]	
		$12,850,615.87

(2). *From Special or Indirect Taxes.*

Excise tax (sale of liquors) . . .		4,197,858.72
Inheritance tax		4,284,606.87
Organization of corporations . . .		295,091.22
Corporation taxes.		
Insurance companies .	$159,674.63	
Transportation companies	1,475,708.44	
Telegraph companies, etc.	288,678.25	
Gas companies, etc. .	2,990,334.80	
Foreign banks . . .	37,217.89	
Special licenses . . .	15,066.92	
		4,966,680.93
Corporation assessments.		
Railroad companies . .	$82,641.20	
Banking companies . .	78,521.38	
Gaslight companies . .	8,957.59	
Racing commission . .	3,761.47	
Pool tax	103,385.56	
		277,267.20
Public fees.		
Public officers . .	$438,376.71	
Notaries public . . .	54,935.00	
State institutions . .	303,324.94	
Canal bureau, Canal Fund .	2,843.17	
Public administrator . .	10,235.79	
		809,715.61
Miscellaneous.		
County tax (arrears, etc.)	$396,869.35	
Fines under dairy laws .	22,604.33	
Detective licenses . .	2,750.00	
		422,223.68
Total revenue from taxation . .		$25,004,061.10
Total State Revenues,		$27,161,464.61

Fund Transfers (see note, p. 289).		
To Common School Fund	$118,628.90	
To U. S. Deposit Fund .	122,993.94	
To Literature Fund . .	301,730.00	
To Canal Fund (State tax)	2,839,877.43	
		$3,383,877.47
Total Receipts — in Funds Account		$30,544,694.88

B. STATE EXPENDITURES

1. General Government Expenses

(1). *For Executive Departments.*		
Executive's office . .	$53,054.76	
Secretary of state . .	59,482.38	
Comptroller . . .	199,237.63	
State treasurer . . .	26,783.25	
Attorney-general . .	163,029.09	
State engineer and surveyor	67,594.06	
Executive commissions.		
Department of excise .	520,721.46	
Tax commission . .	59,338.57	
Civil service commission	37,048.19	
Metrop. board of elections	195,468.54	
		$1,381,757.93
(2). *For Legislative Department.*		
Legislature . . .	$628,370.89	
Printing, legislative docs., etc.	571,124.77	
Statutory revision commission	5,515.83	
Temporary commissions .	116,994.85	
		1,322,006.34
(3). *For Miscellaneous Items.*		
Public buildings . .	$291,615.63	
State architect . . .	53,540.07	
Stationery for offices . .	10,709.25	
Postage for officers . .	18,772.22	
Transportation for officers .	29,537.64	
		404,174.81
Total government expenses . .		$3,107,939.08

2. Expenses of Administrative Work

(1).	*For Administration of Justice.*		
	Court of appeals . .	$228,087.39	
	Supreme court . . .	698,986.17	
	Court of claims (with awards)	217,185.65	
	Public administrator . .	1,929.50	
	Law libraries . . .	25,154.38	
			$1,171,343.09
(2).	*For Protection of the Community.*		
	Board of health . .	$41,576.71	
	Quarantine	111,766.19	
	Port wardens . . .	4,508.54	
	Inspector of steam vessels	7,550.91	
	State racing commission .	10,078.13	
	National guard . . .	609,326.35	
	Arsenals and armories .	124,486.86	
	Military Record Fund—Statistics	2,038.98	
			911,332.67
(3).	*For Public Education.*		
	Regents of the University .	$67,316.80	
	State Library and Museum	88,607.64	
	Geology and paleontology .	15,017.42	
	State historian . . .	11,154.06	
	Alfred University . .	17,828.00	
	Normal school buildings .	106,562.28	
	Dept. of Public Instruction	76,610.37	
	Free School Fund.		
	To counties . . .	3,494,189.37	
	To normal schools .	315,320.67	
	To training classes .	391,830.87	
	Common School Fund.		
	To counties . . .	236,000.00	
	To Indian schools . .	6,897.85	
	Literature Fund.		
	To academies, etc. .	332,588.80	
	U.S. Deposit Fund.		
	To libraries, etc. . .	102,391.70	
			5,262,370.83

(4). *For Charities and Corrections.*

Board of Charities	$75,167.36	
Soldiers' and sailors' home	278,513.35	
Institutions for the blind	80,567.49	
Institutions for deaf-mutes	229,377.68	
Other charitable institutions	1,784,682.87	
Indian affairs	10,338.81	
Commission in lunacy	61,027.71	
State care of insane	4,739,490.76	
Prison commission	11,673.53	
Superintendent of prisons	35,690.99	
State prisons	561,934.36	
Penitentiaries	62,040.98	
		7,930,506.89

(5). *For Control of Economic Interests.*

Land office	$8,848.02	
Forest, fish, and game commission	125,521.93	
Adirondack Park	216,060.69	
Catskill forest preserve	17,071.37	
St. Lawrence reservation	1,665.35	
Niagara reservation	152,647.11	
Stony Point peninsula	2,595.00	
Superintendent of hatcheries	52,223.65	
Forest Preserve Fund	64,075.00	
Onondaga salt works	1,625.00	
Agricultural department	240,928.81	
Agricultural societies	184,000.00	
Other agricultural objects	296,519.12	
Cornell University Fund	25,060.27	
Department of labor	81,894.80	
Bureau of labor statistics	15,150.82	
Factory inspector	48,922.75	
Mediation and arbitration	7,081.41	
Inspector of gas meters	24,256.85	
Supt. of weights, etc.	300.00	
Rivers, roads, and bridges	264,510.59	
Canal Fund — for canals	3,308,741.79	

Railroad commission	106,322.94	
Insurance department	162,066.06	
Bank department	84,241.78	
		5,492,331.11
Total expenses of administration		$20,767,884.59

3. Unclassified Expenses

Investments.		
Common School Fund	$234,952.23	
U.S. Deposit Fund	82,915.35	
		$317,867.58
County taxes (refunded, etc.)		156,036.32
Pan American Exhibition		192,958.37
Paris Exhibition		1,141.47
Presidential electors		2,188.85
Grand Army of the Republic		661.04
Board of classification		45.34
Surrogate fees		21.11
Monuments		23,447.79
Miscellaneous		25,685.01
Total unclassified expenses		$722,018.33
Total State Expenditures		$24,597,841.00

Fund Transfers.[1]		
From State tax to Canal Fund	$2,839,879.43	
From General Fund	456,336.42	
From U.S. Deposit Fund	151,091.42	
		3,447,305.27
Total Expenditures—in Funds Account		$28,045,146.27

[1] As these moneys are simply paid out of one fund into another, they do not affect the total revenues and expenditures of the State—but merely increase the total amounts which appear in the Funds Account.

C. STATE FUNDS ACCOUNT

1. RECEIPTS AND EXPENDITURES

Name of Fund	Receipts	Expenditures
General Fund	$22,271,538.42	$19,297,051.97
Common School Fund	385,671.53	477,850.08
United States Deposit Fund	316,731.24	336,398.47
Literature Fund	316,308.00	332,588.80
Free School Fund	4,159,936.18	4,201,340.91
Forest Preserve Fund	64,108.13	64,075.00
Cornell University Fund	25,060.27	25,060.27
Military Record Fund	3,984.41	2,038.98
Canal Fund	3,001,356.70	3,308,741.27
Total	$30,544,694.88	$28,045,146.27

2. GENERAL BALANCE SUMMARY

Balance Oct. 1, 1900	$7,289,802.55	
Receipts for year ending Sept. 30, 1901	30,544,694.88	
Expenditures for year ending Sept. 30, 1901		$28,045,146.27
Balance Oct. 1, 1901		9,789,351.16
Total	$37,834,497.43	$37,834,497.43

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